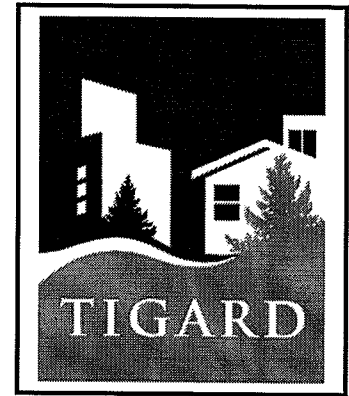




TIGARD CITY COUNCIL  
WORKSHOP MEETING

NOVEMBER 21, 2006 6:30 p.m.

TIGARD CITY HALL  
13125 SW HALL BLVD  
TIGARD, OR 97223



PUBLIC NOTICE:

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A  
TIGARD CITY COUNCIL  
WORKSHOP MEETING

6:30 PM



1. WORKSHOP MEETING
  - 1.1 Call to Order - City Council
  - 1.2 Roll Call
  - 1.3 Pledge of Allegiance
  - 1.4 Council Communications & Liaison Reports
  - 1.5 Call to Council and Staff for Non-Agenda Items
  
2. UPDATE ON ENTRY SIGNS  
Staff Report: Public Works Department
  
3. REVIEW PROPOSED GOAL 5 HABITAT-FRIENDLY DEVELOPMENT PROVISIONS  
Staff Report: Community Development Department
  
4. MEMORANDUM BETWEEN WASHINGTON COUNTY, ITS JURISDICTIONS AND SERVICE DISTRICTS, TO NOT EXTEND SERVICES TO DEVELOPMENT OUTSIDE THE URBAN GROWTH BOUNDARY THAT IS THE RESULT OF MEASURE 37 CLAIMS  
Staff Report: Community Development Department
  
5. FANNO CREEK PARK MASTER PLAN REQUEST FOR PROPOSALS  
Staff Report: Community Development Department
  
6. NON AGENDA ITEMS
  
7. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
  
8. ADJOURNMENT

Agenda Item #  
Meeting Date

November 21, 2006

**COUNCIL AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/Agenda Title Update on City Entryway Signs

Prepared By: Dennis Koellermeier Dept Head Approval:  City Mgr Approval: 

**ISSUE BEFORE THE COUNCIL**

No action is required. Consultants from the landscape architectural firm of Lango Hansen will update the Council on the status of City entryway signs.

**STAFF RECOMMENDATION**

No recommendation.

**KEY FACTS AND INFORMATION SUMMARY**

- As part of the process to create a new City logo, the Council expressed a desire to install entryway signs along roadways at key entry points to the City.
- On July 11, 2006, the Council approved Ordinance No. 06-09 amending the Tigard Community Development Code to address and allow entryway signs within the City.
- At its August 8, 2006, meeting the Council discussed hiring a landscape architecture firm to work on entryway signage.
- In early September the landscape architecture firm of Lango Hansen was retained to design the entryway signs, assist with bid preparation, obtain permits, and perform construction management.
- At tonight's November 21 meeting, consultants from Lango Hansen will update the Council on entryway sign design, location, and permitting.

**OTHER ALTERNATIVES CONSIDERED**

None.

**COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT**

Tigard Beyond Tomorrow, Community Character & Quality of Life, Community Aesthetics

Goal #1: Identify and implement projects and activities that enhance aesthetic qualities valued by those who live and work in Tigard.

Planned Action: Install portal areas signage into Tigard to give the community a more defined entrance by the end of 2005.

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## ATTACHMENT LIST

None.

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## FISCAL NOTES

There is \$50,000 in the FY '06-'07 Parks CIP budget for the design and construction of entryway signs. The services of Lango Hansen will be \$12,730, leaving \$37,270 remaining in the current budget for sign permitting fees, construction, and other related expenses.

Agenda Item #

Meeting Date

November 21, 2006

## COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Review Proposed Goal 5 Habitat-Friendly Development Provisions

Prepared By: Denver Igarta

Dept Head Approval: TC/jl

City Mgr Approval: cl

### ISSUE BEFORE THE COUNCIL

Review the Planning Commission's recommendation to adopt amendments to the Tigard Comprehensive Plan and Community Development Code to encourage habitat-friendly development by implementing the recommendations of the *Tualatin Basin Fish & Wildlife Habitat Program* in compliance with Statewide Planning Goal 5 and Metro Functional Plan Title 13 Nature in Neighborhoods.

### STAFF RECOMMENDATION

Council is requested to review the Planning Commission's recommendation and provide direction to staff to assist it in making a decision on the matter at its public hearing on December 12, 2006.

### KEY FACTS AND INFORMATION SUMMARY

In 2002, Metro completed an inventory of regionally significant riparian corridors and wildlife habitat in accordance with Statewide Planning Goal 5 procedures and requirements outlined under Oregon Administrative Rule (OAR) 660-023.

Also in 2002 (April), Council approved entering into an intergovernmental agreement with other local Washington County jurisdictions forming the *Tualatin Basin Partners for Natural Places*. The purpose for forming the Tualatin Basin Partnership was to establish a basin-specific habitat protection program by analyzing the impacts locally of allowing, limiting or prohibiting development within regionally inventoried resource areas. Since 2002, the City of Tigard has participated on the Tualatin Basin Partners' Steering Committee (comprised of staff representatives) and Natural Resource Coordinating Committee (comprised of elected local officials).

From 2004-2005, the Tualatin Basin Partners completed a refinement to the resource inventory, an economic, social, environmental and energy (ESEE) analysis, and adopted a Fish and Wildlife Habitat Program (and map). In September 2005, Metro Council formally approved the Basin Program as a compliance option for Metro Functional Plan Title 13 (Nature in Neighborhoods), which was acknowledged by the State Land Conservation and Development Commission (LCDC) in October 2006.

In February 2006, City Council authorized signing a new intergovernmental agreement (IGA) extending the Tualatin Basin Partnership to jointly coordinate implementation of the approved Program. Local jurisdictions must now implement applicable elements of the Basin program as outlined in the *Tualatin Basin Program Implementation Report*.

On October 16, 2006, a public hearing was held with the Planning Commission concerning the proposed habitat-friendly development provisions (CPA 2006-00001/DCA 2006-00004). At the hearing, the Planning Commission

voted unanimously to recommend approval of the amendments subject to some modifications to the proposed code language.

On December 12, 2006, a public hearing will be held with City Council on the proposed amendment. In accordance with code section 18.390.060.H.4., Council has the final authority to approve, modify or deny the application for legislative change.

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#### **OTHER ALTERNATIVES CONSIDERED**

Other alternatives were considered but deemed not viable.

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#### **COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT**

2006 City Council Goals:

- Revise the City of Tigard Comprehensive Plan
- Consider Opportunities for Major Greenspaces Purchases

Tigard Beyond Tomorrow:

- Growth and Growth Management: Growth will be managed to protect the character and livability of established areas, protect the natural environment and provide open space throughout the community.
- Urban & Public Services: Open space and greenway areas shall be preserved and protected.

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#### **ATTACHMENT LIST**

Attachment 1: Staff Memo to City Council  
Attachment 2: Staff Report to Planning Commission (PC)  
Attachment 3: Summary of Proposed Amendments  
Attachment 4: Proposed Significant Habitat Areas Map  
Attachment 5: PC Public Hearing Minutes  
Attachment 6: Response to Public Hearing Comments

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#### **FISCAL NOTES**

Not applicable



# MEMORANDUM

TO: City Council

FROM: Denver Igarta, Associate Planner

RE: Proposed Habitat-Friendly Development Provisions  
*CPA 2006-00001/DCA 2006-00004*

DATE: November 7, 2006

This memo transmits the recommendations to City Council made by the Planning Commission at a public hearing held on October 16, 2006, concerning proposed habitat-friendly development provisions (CPA 2006-00001/DCA 2006-00004). At the public hearing, the Planning Commission voted unanimously to recommend approval of the proposed amendments subject to the modifications which are described below.

The purpose of this memo is to inform the City Council of the proposed amendments and modifications made subsequent to the October 16<sup>th</sup> public hearing in anticipation of Council's November 21<sup>st</sup> worksession and its December 12<sup>th</sup> public hearing.

In addition to the Planning Commission recommendation, Metro independently advised the City offer a simplified process for verifying habitat boundaries to more effectively encourage habitat protection. The agency's comments were not submitted in time for the Planning Commission's public hearing. Metro's recommendation is minor in nature and does not substantively change the proposal as reviewed and recommended by the Planning Commission. Since the proposed amendment is considered legislative, Council may adopt the changes along with the provisions recommended by the Planning Commission. Staff recommends this course of action.

## **Background**

### **Why is the City adopting new Habitat-Friendly Development Provisions?**

The proposed amendments result from Metro assuming responsibility for fish and wildlife habitat as "regional resources" (in compliance with Statewide Goal 5) by adopting Title 13 – Nature in Neighborhoods as part of their Urban Growth Management Functional Plan, which was acknowledged in October 2006, by the State Land Conservation and Development Commission (LCDC). Following LCDC acknowledgement of the Functional Plan, local governments within Metro must apply Metro requirements rather than the requirements of Statewide Goal 5.

Since 2002, the City of Tigard has collaborated with other local jurisdictions within Washington County to develop the *Tualatin Basin Fish and Wildlife Habitat Program*. In September 2005, Metro incorporated the Tualatin Basin Program as part of the regional Nature in Neighborhoods Program

(Title 13 of the Metro Functional Plan). Basin jurisdictions must now implement applicable elements of the Tualatin Basin Program by the end of the year.

It is important to emphasize that the proposed habitat-friendly development provisions are aimed at fulfilling the requirements of Title 13, which sets minimum requirements for preserving riparian and upland habitat areas. Local jurisdictions may adopt protection and restoration programs that go beyond the regional program; however, this must be carried out in accordance with standard Goal 5 procedures and be approved independently by LCDC.

### **What do the Habitat-Friendly Development Provisions Propose?**

The proposed amendments will not result in increased development restrictions but will give property owners and developers the option to take advantage of greater regulatory flexibility in exchange for the use of habitat-friendly practices. These amendments also remove barriers to development that incorporate recommended habitat-friendly development techniques.

### **Status of Existing Regulations**

Existing regulations contained in Clean Water Services Design and Construction Standards and the City's Community Development Code (including protections for drainageways, riparian/vegetated corridors, wetlands, floodplains, steep slopes, and trees) are more restrictive and therefore supersede the proposed voluntary habitat-friendly development provisions.

### **Planning Commission Recommended Changes to Staff's Original Proposal**

The Planning Commission has recommended that Council adopt the proposal with the following modifications.

1. Density Transfer: At the Commission's September 25<sup>th</sup> worksession, staff proposed a density transfer provision based on the Tualatin Basin recommendation (i.e. allow development potential to be transferred from qualified habitat areas) to augment existing regulations which provide density transfer/bonuses for the following:
  - 100-yr floodplain, steep slopes and drainageways: Up to 25%;
  - Wetlands: Up to 100% for land zoned R-12, R-25, and R-40;
  - Tree retention: 1% bonus for each 2% of canopy cover, up to 20% ; and
  - Planned developments: 1% bonus for each 5% of the gross site area set aside in open space, up to 5%.

The Planning Commission decided to recommend to the City Council that code amendments be deferred until further consideration can be given to establishment of design standards and review procedures to ensure that proposed density transfers will be compatible with the surrounding neighborhood. The issue shall be added to the Planning Commission calendar for further discussion in the near term.

2. Exemption for Projects to Implement CWS Healthy Streams Plan: At the October 16<sup>th</sup> Public Hearing, public testimony was given in opposition to exempting projects which implement Clean Water Services Healthy Streams Plan from the City's Sensitive Lands provisions since this would remove the process for citizens to review and comment on proposed actions. Based on the testimony, the Planning Commission decided to exclude this exemption from the habitat-friendly development provisions being recommended for approval by Council.



### **Metro Recommendation**

Subsequent to the October 16<sup>th</sup> Public Hearing, Metro advised City staff of the need to offer a simplified map verification process (per Metro Code Section 3.07.1330.G.2.) to applicants who agree that the adopted Significant Habitat Areas map is accurate. As a result, applicants who agree with the map would not be required to hire a professional consultant or conduct a detailed on-site delineation. In response, staff has modified the proposed map verification procedures accordingly.

### **Public Hearing Comments and Responses**

In order to clarify responses to issues raised and comments submitted at the October 16<sup>th</sup> Public Hearing with the Planning Commission, staff has prepared the attached summary (refer to Attachment 6). Written comments were submitted on October 16<sup>th</sup> by the Biodiversity Project of Tigard.

### **Council Options**

On December 12, 2006, a public hearing will be held with City Council on the proposed amendments. In accordance with Code Section 18.390.060.H.4., the Council has the final authority to approve, modify or deny the application for legislative change.

Should the City Council approve or modify the proposed habitat-friendly development provisions, the City of Tigard would fulfill its obligation, under Metro Title 13, to adopt provisions to facilitate and encourage the use of habitat-friendly development practices, where technically feasible and appropriate.

Should the City Council decide not to adopt the proposed amendments (which are based on the Tualatin Basin recommendations), the City may choose to amend its Comprehensive Plan and implementing ordinances to adopt Metro's Title 13 Model Ordinance and the Metro Habitat Conservation Areas Map.

### **Possible Next Steps**

If the proposed habitat-friendly development provisions are adopted, the City Council could elect at a later time to enhance and expand upon existing regulations and protections beyond the minimum requirements set by Metro Title 13. Should the City decide to adopt greater limits on development outside the CWS vegetated corridor, but within inventoried significant habitat areas, it must follow State Goal 5 procedures and gain approval directly from the State Land Conservation and Development Commission (LCDC).

Agenda Item: 5.1Hearing Date: October 16, 2006 Time: 7:00 PM

**STAFF REPORT TO THE  
PLANNING COMMISSION  
FOR THE CITY OF TIGARD, OREGON**



120 DAYS = N/A

**SECTION I. APPLICATION SUMMARY****FILE NAME:** HABITAT-FRIENDLY DEVELOPMENT PROVISIONS

**CASE NOS:**                      **Comprehensive Plan Amendment (CPA)**                      **CPA 2006-00001**  
    **Development Code Amendment (DCA)**                      **DCA 2006-00004**

**APPLICANT:**                      City of Tigard  
    13125 SW Hall Boulevard  
    Tigard, OR 97223

**PROPOSAL:**                      Amendments to the Tigard Comprehensive Plan (Volume I) and Community Development Code (Sections 18.360, 18.370, 18.705, 18.715, 18.765, 18.775, 18.810) in compliance with Statewide Planning Goal 5 and Metro Title 13 (Nature in Neighborhoods) to adopt the proposed Significant Habitat Areas Map and to implement the recommendations of the Tualatin Basin Fish & Wildlife Habitat Program aimed at encouraging the use of habitat-friendly development practices. The proposed amendments will not result in increased development restrictions but will give developers the option to take advantage of greater regulatory flexibility in exchange for the use of habitat-friendly practices. Amendments will remove barriers to, and provide code flexibility for, development that incorporates habitat-friendly techniques.

**LOCATION:**                      Citywide

**ZONING:**                      CBD, C-G, C-P, I-H, I-L, I-P, MUC, MUE, MUE-1, MUE-2, MUR-1, MUR-2, R-1, R-2, R-3.5, R-4.5, R-7, R-12, R-25.

**COMP PLAN:**                      Commercial, Industrial, Mixed Use, Residential.

**APPLICABLE  
REVIEW**

**CRITERIA:**                      Community Development Code Chapters 18.360, 18.370, 18.380, 18.390, 18.705, 18.715, 18.765, 18.775 and 18.810; Comprehensive Plan Policies 2, 3 & 4; Metro Functional Plan Title 3 and 13; and Statewide Planning Goals 1, 2, 5 and 6.

**SECTION II. STAFF RECOMMENDATION**

Staff recommends that the Planning Commission find that this request for Comprehensive Plan Amendment and Development Code Amendment meets the necessary approval criteria. Therefore, staff recommends APPROVAL of the CPA 2006-00001 and DCA 2006-00004 according to the findings found in Section IV of this report.

### **SECTION III. BACKGROUND INFORMATION**

#### **Project History**

##### *Statewide Planning Goal 5 and Metro's Regional Goal 5 Program*

One of the 19 statewide planning goals which form the framework for local planning programs, Goal 5 aims to protect natural resources and conserve scenic and historic areas and open spaces. Under Goal 5, Metro is authorized to adopt as part of their Urban Growth Management Functional Plan (Functional Plan), regional programs to address all applicable requirements of Goal 5 and State Administrative Rules for designated "regional resources".

Goal 5 establishes three basic steps to comply with its standard inventory process, which include: conducting an inventory and map of significant resources; analyzing the economic, social, environmental and energy (ESEE) impacts of protecting inventoried resources; and, developing a program to implement the ESEE decision to allow, limit or prohibit conflicting uses.

In 2002, Metro completed the first step by completing an inventory for Regionally Significant Riparian Corridors and Wildlife Habitat. As part of this effort, Metro established criteria to define and identify regionally significant riparian corridors and wildlife habitat.

##### *Tualatin Basin Fish and Wildlife Habitat Program*

Also in 2002, an alliance was formed between local jurisdictions within Washington County, known as the Tualatin Basin Partners for Natural Places (Partners), working with the Portland Metropolitan Service District (Metro), Tualatin Hills Parks and Recreation District and Clean Water Services, to develop a basin-specific approach to protecting fish and wildlife habitat. Councilor Sally Harding represents the City of Tigard on the Tualatin Basin Natural Resource Coordinating Committee (TBNRCC), comprised of elected officials, while Associate Planner Denver Igarta serves on the Steering Committee, which is comprised technical staff.

The Tualatin Basin partnership initiated the second step of analyzing the environmental, social, economic, and energy (ESEE) consequences of allowing, limiting or prohibiting (ALP) conflicting uses in areas identified in Metro's inventory of regionally significant riparian corridors and wildlife habitat. The ESEE analysis was completed in July 2004 and resulted in the Tualatin Basin ALP Map, which forms the basis for the proposed Significant Habitat Areas Map.

Finally, the Tualatin Basin Fish & Wildlife Habitat Program was developed to address the third required step by implementing the recommendations of the ESEE analysis. The TBNRCC voted to send on to Metro their Goal 5 Program for improving the environmental health of the Tualatin Basin. In September 2005, Metro incorporated the Tualatin Basin Program as part of the regional Nature in Neighborhoods Program (Title 13). Under an intergovernmental agreement between the Tualatin Basin Partners and Metro, local jurisdictions must now implement applicable elements of the Basin program. Recently, the Partners formulated a strategy for local implementation of program elements. The Program Implementation Report prepared by the Partners recommends development code amendments for local jurisdictions to incorporate habitat-friendly development provisions and remove regulatory barriers. The amendments being proposed were identified based on an analysis of these recommendations and existing City of Tigard regulations.

## **Proposal Description**

The primary intent of the proposed changes is to encourage habitat-friendly development by implementing recommendations of the Tualatin Basin Fish & Wildlife Habitat Program in compliance with Statewide Planning Goal 5 and Metro's Nature in Neighborhoods Program (Title 13).

Amendments are being proposed to the Tigard Comprehensive Plan and Community Development Code to implement the recommendations of the Tualatin Basin Fish & Wildlife Habitat Program by adopting the proposed Significant Habitat Areas Map and habitat-friendly development provisions. The proposed amendments will not result in increased development restrictions but will give property owners and developers the option to take advantage of greater regulatory flexibility in exchange for the use of habitat-friendly practices. Amendments will also remove barriers to development that incorporates recommended habitat-friendly techniques.

## **SECTION IV SUMMARY OF REPORT**

- ❖ Applicable criteria, findings and conclusions
  - Tigard Community Development Code
    - Chapter 18.360
    - Chapter 18.370
    - Chapter 18.380
    - Chapter 18.390
    - Chapter 18.705
    - Chapter 18.715
    - Chapter 18.765
    - Chapter 18.775
    - Chapter 18.810
  - Applicable Comprehensive Plan Policies
    - Policy 2, Policy 3 & Policy 4
  - Applicable Metro Standards
    - Title 3 & Title 13
  - Statewide Planning Goals
    - Goals 1, 2, 5 & 6
- ❖ City Department and outside agency comments

## **SECTION V. APPLICABLE CRITERIA AND FINDINGS**

### **CITY OF TIGARD COMMUNITY DEVELOPMENT CODE (TITLE 18)**

#### **Chapter 18.360. Site Development Review**

*This chapter does not include review criteria relevant to the proposed amendments. Since revisions to this chapter are being proposed, the purposes of the chapter were reviewed to determine consistency with the proposed amendments.*

##### **18.360.010 Purpose**

**A. Promote general welfare.** The purpose and intent of site development review is to promote the general welfare by directing attention to site planning, and giving regard to the natural environment and the elements of creative design to assist in conserving and enhancing the appearance of the City.

**B. General purposes.** It is in the public interest and necessary for the promotion of the health, safety and welfare, convenience, comfort and prosperity of the citizens of the City of Tigard:

**C. Environmental enhancement.** To prevent the erosion of natural beauty, the lessening of environmental amenities, the dissipation of both usefulness and function, and to encourage additional landscaping, it is necessary:

The proposed amendments are aimed at encouraging development that incorporates habitat-friendly methods and techniques as part of site planning considerations. The proposal directly addresses the objective stated in 18.360.010.C. of preventing “the erosion of natural beauty, the lessening of environmental amenities, the dissipation of both usefulness and function, and to encourage additional landscaping.” In particular, the proposed amendment to 18.360.090.A.2.c. would complement the purpose statement “to encourage the innovative use of materials, methods and techniques” by encourage developers to incorporate techniques for reducing site hydrology and fish and wildlife habitat impacts into their site planning.

**Chapter 18.370. Variances and adjustments**

*This chapter does not include review criteria relevant to the proposed amendments. Since revisions to this chapter are being proposed, the purposes of the chapter were reviewed to determine consistency with the proposed amendments.*

**18.370.010 Variances**

**A. Purpose.** The purpose of this section is to provide standards for the granting of variances from the applicable zoning requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific property, the literal interpretation of the provisions of the applicable zone would cause an undue or unnecessary hardship, except that no use variances shall be granted.

The proposed amendments will result in adoption of the proposed “Significant Habitat Areas Map” which depicts the inventory of “significant” riparian and upland habitat areas. The inventory process factored in the economic, social, environmental and energy (ESEE) impacts of protecting inventoried resources. Based on this analysis a program was developed to implement the ESEE decision by proposing amendments to local regulations. The proposed amendments will offer greater regulator flexibility to encourage developers to give special consideration to “significant habitat areas” located on their properties.

**Chapter 18.380. Zoning Map and Text Amendments:**

**18.380.020 Legislative Amendments to this Title and Map**

**A. Legislative amendments.** Legislative zoning map and text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.390.060G.

The proposed amendments to the Tigard Comprehensive Plan and Community Development Code would establish rules and regulations to be applied generally to all similarly affected properties (with inventoried significant habitat) throughout the City of Tigard; and therefore, the application is being processed as a Type IV Procedure, Legislative Amendment, as governed by Section 18.390.060.G..

**Chapter 18.390. Decision- Making Procedures**

**18.390.020.B.4. Type IV Procedure.** Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy. Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council.

The proposed amendments to the Tigard Comprehensive Plan and Community Development Code will

be reviewed under the Type IV procedure as detailed in the Section 18.390.060.G. In accordance with this section, the amendments will initially be considered by the Planning Commission with City Council making the final decision.

**18.390.060G. Decision-making considerations.** The recommendation by the Commission and the decision by the Council shall be based on consideration of the following factors:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;
2. Any federal or state statutes or regulations found applicable;
3. Any applicable METRO regulations;
4. Any applicable comprehensive plan policies; and
5. Any applicable provisions of the City's implementing ordinances.

The findings presented in this staff report address the review criteria listed above as being applicable to the proposed amendments to the Comprehensive Plan and Development Code.

#### **Chapter 18.705. Access, Egress, and Circulation**

*This chapter does not include review criteria relevant to the proposed amendments. Since revisions to this chapter are being proposed, the purposes of the chapter were reviewed to determine consistency with the proposed amendments.*

**18.705.010.A. Purpose.** The purpose of this chapter is to establish standards and regulations for safe and efficient vehicle access and egress on a site and for general circulation within the site.

The proposed amendment to this chapter explicitly adds pervious paving surfaces to the list of hard surfaced materials for paving required walkways. The provision requires any pervious paving surface to be designed and maintained to remain well-drained to ensure the long-term function of the walkway to provide safe and efficient access and circulation.

#### **Chapter 18.715. Density Computations**

*This chapter does not include review criteria relevant to the proposed amendments. Since revisions to this chapter are being proposed, the purposes of the chapter were reviewed to determine consistency with the proposed amendments.*

**18.715.010.A. Purpose.** The purpose of this chapter is to implement the comprehensive plan by establishing the criteria for determining the number of dwelling units permitted.

Currently, the Tigard Development Code Section 18.715.030 allows for 25% of the unbuildable area within sensitive lands (i.e. 100-yr. floodplain, steep slopes, drainageways) to be transferred to the remaining buildable land areas (not to exceed 125% of the maximum permitted by the applicable comprehensive plan designation). The Planned Development Chapter of the Code allows for a density bonus of up to 10% as an incentive to increase or enhance open space, architectural character and/ or site variation incorporated into the development. In addition, the Tree Removal Chapter allows for a density bonus of up to 20 % as an incentive for retaining existing canopy cover (trees over 12 inches in caliper).

At their September 25, 2006, work session, the Planning Commission considered the Tualatin Basin recommendation to allow "all development potential to be transferred" from qualified habitat areas. The Planning Commissioners expressed concerns that the lack of adequate design criteria for, and the proposed administrative-level approval of, density transfers may result in development which is incompatible with the surrounding neighborhood. They conferred that design standards for transferring density, and perhaps a higher-level of review, may be required to ensure an adequate degree of compatibility. The Planning Commission decided to not support an amendment to allow density transfers at this time; rather, to return to this issue at a later date, when more time can be devoted to the development of appropriate design review standards and procedures.

Applicable comprehensive plan policies are addressed within this staff report.

#### **Chapter 18.765. Off-Street Parking and Loading Requirements**

*This chapter does not include review criteria relevant to the proposed amendments. Since revisions to this chapter are being proposed, the purposes of the chapter were reviewed to determine consistency with the proposed amendments.*

##### **18.765.010 Purpose**

**B. Adequate capacity.** These regulations are also intended to establish vehicle parking areas which have adequate capacity and which are appropriately located and designed to minimize any hazardous conditions on the site and at access points.

The proposed amendments to this chapter explicitly add pervious paving surfaces to the list of appropriate surface materials for paving access drives, and vehicle and bicycle parking spaces. The provisions require any pervious paving surface to be designed and maintained to remain well-drained to ensure the long-term function and safe condition of the surface.

#### **Chapter 18.775. Sensitive Lands**

*This chapter does not include review criteria relevant to the proposed amendments. Since revisions to this chapter are being proposed, the purposes of the chapter were reviewed to determine consistency with the proposed amendments.*

##### **18.775.010 Purpose**

- A. Maintain integrity of rivers, streams, and creeks.**
- B. Implement comprehensive plan and floodplain management program.**
- C. Implement Clean Water Service(CWS) Design and Construction Standards.**
- D. Implement the Metro Urban Growth Management Functional Plan.**
- E. Implement Statewide Planning Goal 5 (Natural Resources).**
- F. Protect public health, safety, and welfare.**
- G. Location.**

As described in Section III (Background) of this report, the *Tualatin Basin Fish and Wildlife Habitat Program* was developed as a basin-specific approach to meet Statewide Goal 5 requirements for inventorying riparian areas and wildlife habitat and to comply with Metro's Urban Growth Management Functional Plan Title 13 (the regional *Nature in Neighborhoods* program). In addition, the Tualatin Basin program was developed to complement Clean Water Services Design and Constructions Standards to protect the beneficial uses of water (including rivers, streams and creeks) within the Tualatin Basin. The amendments proposed are intended to implement the Basin-wide program by adopting habitat-friendly development provisions aimed at reducing the detrimental impacts of development on fish and wildlife habitat within the City of Tigard.

The inventory of significant fish and wildlife habitat was conducted in accordance with Oregon Administrative Rule 660-023 Procedures and Requirements for Complying with Goal 5. Based on the findings of an economic, social, environmental and energy (ESEE) analysis, the Tualatin Basin assigned a different "limit" decision to areas and mapped the *strictly*, *moderately* and *lightly* limit areas. The proposed Significant Habitat Areas map delineates the "general location" of each "limit" classification, and the proposed delineation methodology provides procedures for verifying the precise boundaries of the inventoried habitat areas. The proposed amendments would adopt the proposed "Significant Habitat Areas Map" and add "significant habitat areas" to the list of sensitive lands potentially unsuitable for development.

Applicable comprehensive plan policies are addressed within this staff report.

## **Chapter 18.810. Street and Utility Improvement Standards**

*This chapter does not include review criteria relevant to the proposed amendments. Since revisions to this chapter are being proposed, the purposes of the chapter were reviewed to determine consistency with the proposed amendments.*

**18.810.010. Purpose.** The purpose of this chapter is to provide construction standards for the implementation of public and private facilities and utilities such as streets, sewers, and drainage.

**18.810.030.A.7.** The approval authority may approve adjustments to the standards of this chapter if compliance with the standards would result in an adverse impact on natural features such as wetlands, steep slopes, or existing mature trees.

The Streets Section (18.810.030) of this chapter provides for approval of adjustments if compliance with street standards would result in adverse impact to natural features. The proposed amendments would adopt the proposed "Significant Habitat Areas Map", add "significant habitat areas" to the list of sensitive lands, and provide for flexibility in development standards to minimize impacts on resource areas. The proposed changes to this chapter would add inventoried "significant habitat areas" to the list of natural features where street standards may be adjusted.

**CONCLUSION:** Based on the analysis above, staff finds that the proposed amendments satisfy the applicable review criteria and are consistent with the purposes of the chapters being amended within the Tigard Community Development Code.

## **CITY OF TIGARD COMPREHENSIVE PLAN POLICIES**

A review of the comprehensive plan identified the following relevant policies for the proposed amendments:

### **Policy 2 – Citizen Involvement**

**2.1.1 The City shall maintain an ongoing citizen involvement program and shall ensure that citizens will be provided an opportunity to be involved in all phases of the planning process.**

Since 2002, the Tualatin Basin Partners (including the City of Tigard) had been engaged in a lengthy series of outreach efforts through the inventory, analysis, and program development phases of their cooperative effort. Regular steering committee and coordinating committee meetings held monthly were open to the public. A total of nine open houses were held as part of the Tualatin Basin effort (three for each of the three phases – inventory, analysis and program), and three public hearings were also held. In September 2006, a stakeholder dialog was held with individuals representing the environmental and development communities. In addition, the Partners produced a project website, newsletters and information booths (at various events) and held CPO (Citizen Participation Organization) and panel discussions. Throughout the process, program status updates were posted on the City of Tigard website.

As part of the Comprehensive Plan Amendment process, public notices were sent to 2,674 potentially affected property owners informing them of the proposed amendments and public hearings scheduled with the Planning Commission and the City Council. An information sheet was enclosed in the mailing to provide a brief background and overview of the proposed changes, as well as, contact details to obtain more information. In addition, notice of the public hearing was published in the September 28, 2006, issue of the Tigard Times.

### **Policy 3 – Natural Features and Open Space**

#### **3.4 Natural Areas**



**3.4.1 The City shall designate, in accordance with Goal 5, the following as areas of significant environmental concern.**

**c. Areas valued for their fragile character as habitats for plants, animal or aquatic life, or having endangered plant or animal species, or specific natural features, valued for the need to protect natural areas.**

The proposed amendments address the policy to designate “significant” habitats and will result in adoption of the inventory of fish and wildlife habitat areas within the City of Tigard. The proposed “Significant Habitat Areas Map” is based on the inventory of regionally significant riparian corridors and wildlife habitat completed by Metro in 2002. As part of this effort, Metro evaluated habitat sites based on two sets of criteria, one for riparian habitat and one for upland wildlife habitat. Habitat areas were ranked based on their relative health and importance for providing benefits to fish and wildlife. The inventory also factored in data on sensitive species sighting locations, sensitive bird sites, and wildlife species and habitats of concern, as well as the habitat needs of sensitive wildlife and the amount of potential habitat available.

The inventory followed the steps outlined by Statewide Goal 5 including an assessment of economic, social, environmental and energy (ESEE) impacts. Based on this analysis, the Tualatin Basin assigned a different “limit” decision to areas and mapped the *strictly*, *moderately* and *lightly* limit areas. The proposed Significant Habitat Areas map delineates the “general location” of each “limit” classification, and the proposed delineation methodology provides procedures for verifying the precise boundaries of the inventoried habitat areas. The proposed amendments would adopt the proposed “Significant Habitat Areas Map” and add “significant habitat areas” to the list of sensitive lands potentially unsuitable for development. The proposed amendments will offer greater regulator flexibility to encourage developers to give special consideration to the preservation of sensitive habitat on their properties.

**3.4.2 The City shall: a. Protect fish and wildlife habitat along stream corridors by managing the riparian habitat and controlling erosion, and by requiring that areas of standing trees and natural vegetation along natural drainage courses and waterways be maintained to the maximum extent possible;**

The proposed amendments will offer greater regulator flexibility to encourage developers to preserve “significant habitat areas” located on their properties to the maximum extent possible. Habitat-friendly provisions would encourage the preservation of fish and wildlife habitat (including along stream corridors) by allowing reduction of minimum density requirements, adjustment to site dimensional and street improvement standards, and low impact development techniques.

### **3.5 Parks, Recreation and Open Space**

**3.5.1 The City shall encourage private enterprise and intergovernmental agreements which will provide for open space, recreation lands, facilities, and preserve natural, scenic and historic areas in a manner consistent with the availability of resources.**

Based on the recommendations of the Tualatin Basin Fish & Wildlife Habitat Program and the inventory of “significant fish and wildlife areas”, the proposed amendments were identified to encourage property owners and developers to preserve the significant habitat resources on their properties.

## **Policy 4 – Air, Water, and Land Resources**

### **4.2 Water Quality**

**4.2.1 All development within the Tigard Urban Planning Area shall comply with applicable Federal, State and Regional water quality standards, including those contained in the Clean Water Services' Design and Construction Manual.**

The *Tualatin Basin Fish and Wildlife Habitat Program*, which formed the basis for the proposed amendments, was developed as a basin-specific approach to meet Statewide Goal 5 requirements for inventorying riparian areas and wildlife habitat and to comply with Metro's Urban Growth Management Functional Plan Title 13 (the regional *Nature in Neighborhoods* program). In addition, the Tualatin Basin program was developed to complement Clean Water Services Design and Construction Standards to protect the beneficial uses of water (including rivers, streams and creeks) within the Tualatin Basin.

The proposed amendment to 18.360.090.A.2.c. would encourage developers to incorporate innovative methods and techniques for reducing site hydrology and fish and wildlife habitat impacts into their site planning.

**3. The City shall cooperate with the Metropolitan Service District and other appropriate agencies to establish practices which minimize the introduction of pollutants into ground and surface waters.**

The *Tualatin Basin Partners for Natural Places*, an alliance of local governments in Washington County, collaborated with Metro and Clean Water Services to develop the basin-specific approach and to meet federal, state and regional requirements for protecting fish and wildlife habitat.

**CONCLUSION:** Based on the analysis above, staff finds that the proposed amendments satisfy the applicable policies contained in the City of Tigard Comprehensive Plan.

**METRO Framework Plan**

**Metro Functional Plan Title 3 – Water Quality, Flood Management, and Fish/Wildlife Habitat Conservation – protect beneficial uses and functional values of water quality and flood management resources by limiting uses in these areas. Establish buffer zones around resource areas to protect from new development.**

In 2002, the City of Tigard adopted Comprehensive Plan and Code Amendments to comply with Title 3 of Metro's Urban Growth Management Functional Plan, which outlines water quality and flood management requirements for the region. The adopted standards were based on a unified program developed by local governments in the Tualatin Basin and implemented through the Clean Water Services District's (CWS) Design & Construction Standards, which provides for vegetated stream corridor buffers up to 200 feet wide and mandating restoration of corridors in marginal or degraded condition.

The multi-jurisdictional approach undertaken by Tualatin Basin jurisdictions was continued with the formation of the Tualatin Basin alliance to develop a program to meet Statewide Goal 5 requirements for inventorying riparian areas and wildlife habitat and to comply with Metro's Urban Growth Management Functional Plan Title 13 (the regional *Nature in Neighborhoods* program). The *Tualatin Basin Fish and Wildlife Habitat Program* was developed to complement Clean Water Services Design and Construction Standards to protect the beneficial uses of water (including rivers, streams and creeks) within the Tualatin Basin.

In addition, Clean Water Services, local cities, Washington County, Metro, and Tualatin Hills Park and Recreation District, partnered on a parallel effort to develop the CWS Healthy Streams Plan (HSP), an updated watershed plan designed to enhance the functions of the Tualatin Basin surface water system and address the Clean Water Act and Endangered Species Act (ESA). One of the proposed changes to the Development Code would allow HSP projects to be permitted outright when performed in coordination with the City.

**Metro Functional Plan Title 13 – Nature in Neighborhoods – conserve, protect, and restore a continuous ecologically viable streamside corridor system, from the streams’ headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region.**

As stated above, the Tualatin Basin Fish and Wildlife Habitat Program was developed to address Statewide Goal 5 requirements for inventorying riparian areas and wildlife habitat and to comply with Metro’s Urban Growth Management Functional Plan Title 13 (the regional *Nature in Neighborhoods* program). As stated under Metro Code Section 3.07.1330 (B) (5), the Tualatin Basin Program serves as an alternative for member jurisdictions to implement Title 13 as established by an intergovernmental agreement (IGA) between Metro and the Tualatin Basin Natural Resource Coordinating Committee (TBNRCC).

One of the conditions set by the IGA is that Tualatin Basin members must adopt provisions to facilitate and encourage the use of habitat-friendly development practices where technically feasible and appropriate. The Program Implementation Report, prepared by the Tualatin Basin Partners, recommends development code amendments for local jurisdictions to incorporate habitat-friendly development provisions and remove regulatory barriers. The amendments being proposed were identified based on an analysis of these recommendations and existing City of Tigard regulations.

**CONCLUSION:** Based on the analysis above, staff finds that the proposed amendments satisfy the applicable Metro regulations.

## **Statewide Planning Goals**

### ***Statewide Planning Goal 1 – Citizen Involvement:***

**This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.**

A series of outreach efforts was undertaken by the Tualatin Basin Partners, including Tigard, throughout inventory, analysis, and program development phases of this effort. Regular steering committee and coordinating committee meetings held monthly were open to the public. A total of nine open houses and three public hearings were held as part of the Tualatin Basin effort. A stakeholder dialog was held in September 2006 with individuals representing various environmental and development interests. In addition, the Partners produced a project website, newsletters and information booths (at various events) and held CPO (Citizen Participation Organization) and panel discussions. Throughout the process, program status updates were posted on the City of Tigard website.

As part of the Comprehensive Plan Amendment process, public notices were sent to 2,674 potentially affected property owners informing them of the proposed amendments and public hearings scheduled with the Planning Commission and the City Council. An information sheet was enclosed in the mailing

and a webpage was create on the City website to provide a brief background and overview of the proposed changes, as well as, contact details to obtain more information. In addition, notice of the public hearing was published in the September 28, 2006, issue of the Tigard Times.

***Statewide Planning Goal 2 – Land Use Planning:***

**To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.).**

**The Comprehensive Plan was acknowledged by DLCD as being consistent with the statewide planning goals.**

The proposed amendments to the Tigard Comprehensive Plan and Community Development Code are being processed as a Type IV procedure, which requires any applicable statewide planning goals, federal or state statutes or regulations, METRO regulations, comprehensive plan policies, and City's implementing ordinances, be addressed as part of the decision-making process. All applicable review criteria have been addressed within this staff report; therefore, the requirements of Goal 2 have been met.

***Statewide Planning Goal 5 – Natural Resources***

**Requires the inventory and protection of natural resources, open spaces, historic areas and sites suitable for removal and processing of mineral and aggregate resources.**

Goal 5 establishes three basic steps to comply with its standard inventory process, which include: conducting an inventory and map of significant resources; analyzing the economic, social, environmental and energy (ESEE) impacts of protecting inventoried resources; and, developing a program to implement the ESEE decision to allow, limit or prohibit conflicting uses.

Metro completed the first step by adopting an inventory for Regionally Significant Riparian Corridors and Wildlife Habitat. The Tualatin Basin Partners completed the second step by analyzing the environmental, social, economic, and energy (ESEE) consequences of allowing, limiting or prohibiting (ALP) conflicting uses in areas identified in Metro's inventory. The final step was partially completed when Metro incorporated the Tualatin Basin Fish and Wildlife Habitat Program as part of the regional Nature in Neighborhoods Program. Now Tualatin Basin members must adopt provisions to facilitate and encourage the use of habitat-friendly development practices, where technically feasible and appropriate. The amendments being proposed will implement the habitat protection program in compliance with Goal 5 requirements and Metro's regional Title 13 program.

***Statewide Planning Goal 6 – Air, Water and Land Resource Quality***

**To maintain and improve the quality of the air, water and land resources of the state.**

Once a regional functional plan has been acknowledged by the State Land Conservation and Development Commission, local governments within Metro must apply the requirements of the functional plan to comply with Statewide Planning Goals. In 2002, the City of Tigard adopted Comprehensive Plan and Code Amendments to comply with Title 3 of Metro's Urban Growth Management Functional Plan, which outlines water quality and flood management requirements to comply with Goal 6 water quality provisions. The adopted standards were based on a unified program developed by local governments in the Tualatin Basin and implemented through the Clean Water Services District's (CWS) Design & Construction Standards, which provides for vegetated stream corridor buffers up to 200 feet wide and mandating restoration of corridors in marginal or degraded condition.

Title 3, section 3.07.350.C., directed Metro to complete the inventory, analysis and program development

to protect fish and wildlife habitat. The regional *Nature in Neighborhoods* Program and Title 13 of Metro's Urban Growth Management Functional Plan were the outcomes of this effort.

The proposed amendments are intended to implement the Tualatin Basin Fish and Wildlife Habitat Program, which was developed to complement Clean Water Services Design and Construction Standards to protect the beneficial uses of water. The Tualatin Basin Fish and Wildlife Program maintains protections offered through Title 3, while providing for the removal of barriers to habitat friendly development that minimizes impacts to site hydrology and habitat.

**CONCLUSION:** Based on the analysis above, staff finds that the proposed amendments satisfy the applicable Statewide Planning Goals.

### **State or Federal Regulations**

#### ***Federal Endangered Species Act***

In 1973, the Federal Government passed the Endangered Species Act to protect and recover imperiled species and the ecosystems which they depend. Under Statewide Planning Goal 5, local governments are required to obtain current habitat inventory information for wildlife habitat inventories.

The proposed amendments will result in adoption of the inventory of fish and wildlife habitat areas within the City of Tigard. The proposed "Significant Habitat Areas Map" is based on the inventory of regionally significant riparian corridors and wildlife habitat completed by Metro in 2002. In determining habitats of concern, Metro gathered data on sensitive species sighting locations, sensitive bird sites, and wildlife species of concern; linked sensitive wildlife species to their habitat needs; and estimated the amount of potential habitat available.

#### ***Federal Clean Water Act***

**The Clean Water Act regulates impacts to wetlands and other navigable waters of the United States.**

The Tualatin Basin Fish and Wildlife Habitat Program is one of multiple efforts developed in coordination with Clean Water Services, the surface water management and sanitary sewer system utility for urban Washington County, to protect surface water quality. The proposed amendments are intended to implement the Tualatin Basin Program, which was developed to complement other efforts developed in coordination with Clean Water Services (including the Healthy Streams Plan, Stormwater Management Plan, Design and Construction Standards) and designed to address the Clean Water Act and Endangered Species Act (ESA). One of the proposed changes to the Development Code would allow HSP projects to be permitted outright when performed in coordination with the City.

## **SECTION VI. CITIZEN COMMENTS**

**John Frewing** reviewed the proposal and has offered the following comments:

#### **General Response:**

The proposed amendments were identified to implement the recommendations of the *Tualatin Basin Fish & Wildlife Habitat Program* in compliance with Statewide Planning Goal 5 and Metro's *Nature in Neighborhoods Program* (Title 13). Further revisions to the City of Tigard existing regulations which go beyond the scope of this application should be addressed as part (and incorporated into) the larger Comprehensive Plan update process and any subsequent code enhancements identified for the City's local implementing ordinances.

1. **Volume II (Policies) of the Tigard Comp Plan should be amended to implement habitat-friendly development provisions.**

**Response:** Applicable policies contained in Volume II of the City of Tigard Comprehensive Plan have been reviewed within this staff report. Based on the analysis, the proposed amendments were determined to be consistent with existing Comp Plan policies. The City is currently in the process of updating both Volume I and Volume II of the Comprehensive Plan. Any amendments to the policies and strategies contained in Volume II (Findings, Policies & Implementation Strategies) will be considered as part of the larger Comprehensive Plan update process.

2. **A. The proposed change to TCDC 18.360.090 only addresses stormwater runoff, it does not address many other factors which are included in habitat-friendly development**

**Response:** The proposed text change to Section 18.360.090.A.2. has been broadened (beyond stormwater issues) to address potential impacts to site hydrology and fish and wildlife habitat. Also, a list of six broad categories of habitat-friendly development methods has been added, which includes: water quality facilities, pervious pavement, soil amendment, roof runoff controls, habitat friendly fencing and re-directed outdoor lighting. These categories were identified to cover the methods and techniques recommended by the Tualatin Basin Partners.

**B. The proposed changes to TCDC 18.360.090 call for 'consideration' of innovative methods and techniques regarding stormwater runoff. This word (consider) is used elsewhere in the Tigard code regarding evaluation of habitat-friendly design features. A definition of 'consider' should be added to the Tigard code.**

**Response:** The proposed revision to Section 18.360.090.A.2. invites developers to consider methods and techniques for reducing impacts to site hydrology and fish and wildlife habitat based on the surface water drainage patterns and inventoried habitat areas on their property. The standard groups these techniques into six broad categories (i.e. water quality facilities, pervious pavement, soil amendment, roof runoff controls, habitat friendly fencing and re-directed outdoor lighting). "Consideration" of the habitat-friendly development techniques would be determined to be met if this review criterion is addressed within the development proposal in relationship to on-site conditions.

3. **The Proposed Tigard Significant Habitat Areas Map has an important note on it, to the effect that its information is for "general location only". A. The TCDC should have added to it a definition of Significant Habitat Area (Chapter 18.120) and should include a procedure (Chapter 18.775) for any party to add or subtract significant habitat areas to the proposed map within the context of a specific development application; as proposed, only the applicant can make such change.**

**Response:**

The general location of "strictly", "moderately" and "lightly" limit habitat areas is shown on the proposed "Significant Habitat Areas Map"; however, the standards shall be applied to a specific site based on the delineation methodology proposed under Section 18.775.140 of the Sensitive Lands Chapter. As required for wetlands and floodplains, the precise delineation of the "limit" areas shall be surveyed by a qualified professional.

For adjustments to the regional (riparian and upland) habitat inventory, the Tualatin Basin Program utilizes the regional "map correction" process established by Metro. A map correction request form may be obtained on Metro's website and submitted along with sufficient evidence documenting the mapping error. As part of the regional program, local jurisdictions must coordinate with Metro for on-going maintenance of the habitat inventory maps.

**B. The map and associated implementation procedures should include provision for identification and protection of individual 'habitat of concern' areas outside the generalized definitions and colorings of the map.**

**Response:** The proposed "Significant Habitat Areas Map" is based on the inventory of regionally significant riparian corridors and wildlife habitat completed by Metro in 2002. As outlined by

Statewide Goal 5 rules, Metro identified habitats of concern by gathering data on sensitive species sighting locations, sensitive bird sites, and wildlife species of concern; linked sensitive wildlife species to their habitat needs; and estimated the amount of potential habitat available. The inventory "significant" habitat areas and the analysis of consequences of allowing, limiting or prohibiting (ALP) conflicting uses were conducted according to the procedures and requirements for complying with State Goal 5 as defined in Oregon Administrative Rule (OAR) 660-023. Resources situated outside the mapped boundaries (for significant habitat areas) must be delineated by a qualified professional following the proposed delineation methodology.

4. **The proposed TCDC amendments to allow alternative pervious surfaces for parking include the requirement that such surfaces be maintained in a well-drained condition. This is a good requirement, but it is almost unique in the TCDC to place an ongoing responsibility of the land owner in the TCDC.**

**Response:** The text revision requiring pervious paving surfaces to be designed and maintained to remain well-drained borrows existing language from the "bicycle parking design standards" found in 18.765.050.D. The current standard requires surfaces to be "designed to remained well-drained." Since pervious surfaces must be maintained to ensure long-term permeability, the requirement for maintenance was added as part of the text revision.

Tualatin Basin effort has been coordinated with concurrent efforts by Clean Water Service (CWS), including their Healthy Streams Plan, Stormwater Management Plan, and update of the Design and Construction Standards. CWS is currently in the process of revising its Design and Construction Standards to include technical details on stormwater management techniques identified in coordination with the Tualatin Basin Partners.

5. **The meaning of these Class I and Class II areas should be explained and they should be applied to development standards in Chapter 18.775.**

**Response:** A summary of the *Tualatin Basin "Limit" Decision* was added (refer to Table 18.775.3) to the methodology for verifying boundaries for inventoried riparian habitat (18.775.140.A.1.) describing the relationship between "Class I & II" riparian areas and the "strictly limit" "moderately limit" areas on the proposed Significant Habitat Areas Map.

6. **Audubon Society Stormwater Pavement Impacts Reduction (SPIR) Report: These changes define and add reference to practices which can reduce the impact of stormwater and pavement on the flora and fauna habitat in Tigard.**

**Tigard standards for stormwater retention in new development applications should be clarified to require the use of bioswales, rain gardens, ponding, etc.**

**Response:** The text revisions being proposed were identified to complement the current standards within the Tigard Community Development Code and existing language which encourages the preservation of existing trees and the use of native plants. Amendments to the Development Code are being proposed to promote the use of low impact/habitat-sensitive development techniques. These techniques were grouped into six broad categories, which include water quality facilities, pervious pavement, soil amendment, roof runoff controls, habitat friendly fencing and re-directed outdoor lighting. For instance, the category for water quality facilities covers techniques for infiltration, retention, detention and/or treatment of stormwater, such as bioswales. These categories were identified to cover the methods and techniques recommended by the Tualatin Basin Partners and those systems approved by Clean Water Services.

**Dayle Beach** reviewed the proposal and has offered the following comment:

1. **Almost all the land bordering Red Rock Creek has been classified as habitat-friendly with the exception of a big gap between 72<sup>nd</sup> Ave. and the theater entrance from 99W. I strongly suggest that the planners take another look at this Red Rock Creek area.**

**Response:** As part of the assessment of conflicting uses, the Tualatin Basin Partners conducted a site-specific economic, social, environmental and energy (ESEE) analysis of inventoried subwatershed sites. This analysis factored in site characteristics and features (such as land uses and

natural features) resulting in some site-level adjustments to the regional inventory.

The area in question was originally mapped by Metro as Class II riparian habitat. The site is designated as publicly-owned right of way and is currently protected under Clean Water Services "Design and Construction Standards" and the City of Tigard's Development Code. Existing regulations are more restrictive and therefore supersede the proposed habitat-friendly development provisions.

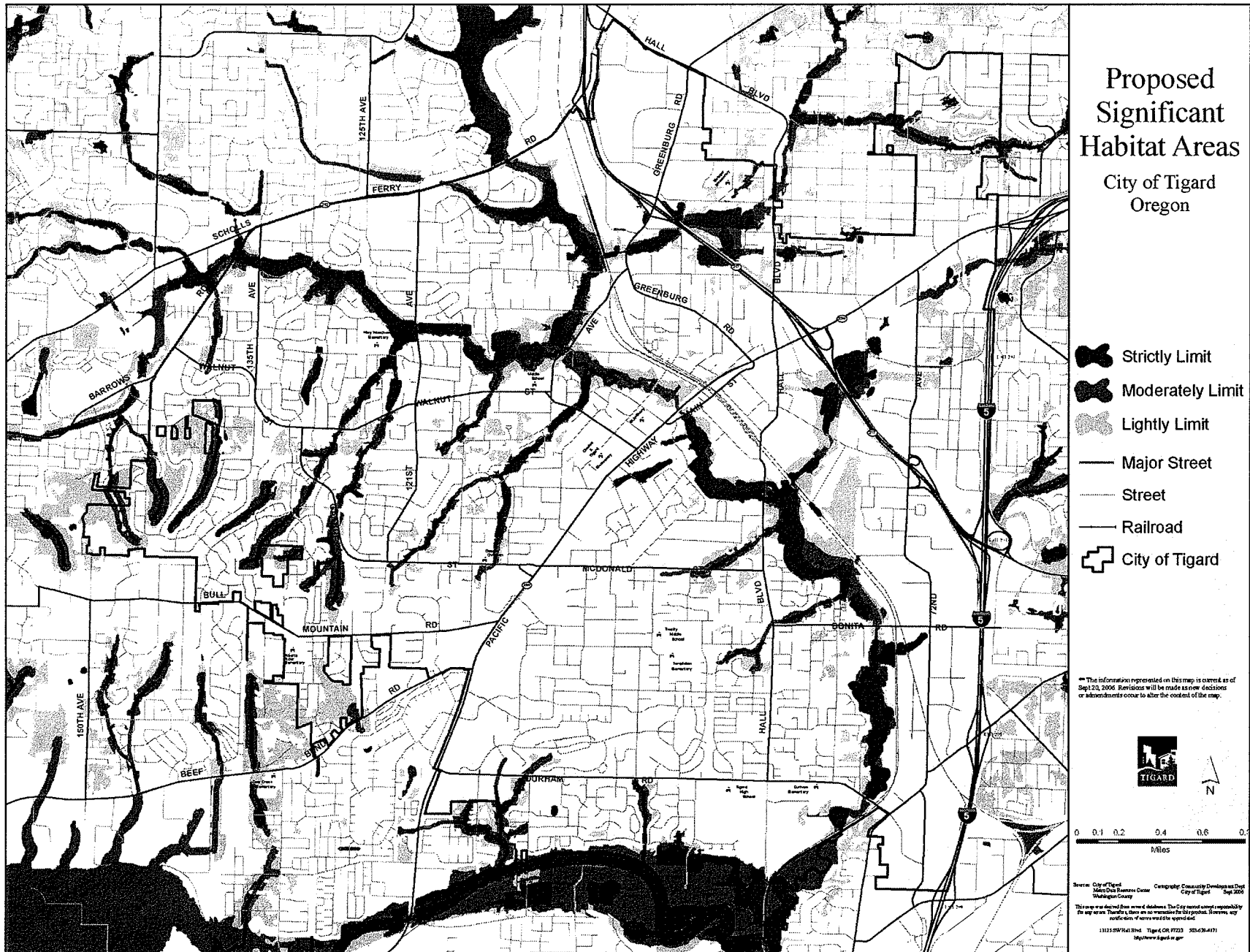
PREPARED BY: \_\_\_\_\_  
Denver Igarta  
Associate Planner

\_\_\_\_\_  
DATE

REVIEWED BY: \_\_\_\_\_  
Richard Bewersdorff  
Planning Manager

\_\_\_\_\_  
DATE





# HABITAT-FRIENDLY DEVELOPMENT PROVISIONS

CPA 2006-00001 / DCA 2006-0000

## PROPOSED AMENDMENTS

The following amendments are proposed to the Tigard Comprehensive Plan, (Volume I) and Community Development Code (Sections 18.360, 18.370, 18.705, 18.715, 18.765, 18.775, 18.810) to adopt the Significant Habitat Areas Map and to implement the recommendations of the Tualatin Basin Fish & Wildlife Habitat Program in compliance with Statewide Planning Goal 5 and Metro Title 13 (Nature in Neighborhoods). The proposed habitat-friendly development provisions will not result in increased development restrictions. Rather, the changes will give property owners and developers the option to take advantage of greater regulatory flexibility in exchange for the use of habitat-friendly development practices. Amendments will remove barriers to, and provide code flexibility for, development which incorporates habitat-friendly techniques.

Proposed amendments are shown as follows:

- Each section begins with commentary explaining the intent of the code amendment followed by the specific language to be revised.
- Language to be added to the Community Development Code is underlined.
- Language to be deleted is shown in ~~strike through~~.

## COMPREHENSIVE PLAN

### NATURAL RESOURCE SECTION

#### Commentary

The Basin's IGA with Metro requires jurisdictions to encourage habitat-friendly development practices in areas Metro identified as Class I and II riparian habitat areas (or Strictly Limited and Moderately Limited). Provisions may be extended to other inventoried resources, including Class III riparian areas & Class A uplands (or Lightly Limited). A map must be adopted to establish the generalized locations of Significant Habitat Areas within Tigard.

#### Amendments

- Adopt: Significant Habitat Areas Map

## COMMUNITY DEVELOPMENT CODE – TITLE 18

### SECTION 18.360 – SITE DEVELOPMENT REVIEW

#### Commentary

The intent of this amendment is to address recommendations for certain innovative techniques requiring further technical specifications, such as soil amendment and building design solution.

#### 18.360.010.C. – Site Development Review

2. To encourage the innovative use of materials, methods and techniques and flexibility in building placement;

#### Code Amendments

18.360.090.A.2. Site Development Review, Relationship to the natural and physical environment:

- c. Innovative methods and techniques to reduce impacts to site hydrology and fish and wildlife habitat shall be considered based on surface water drainage patterns, identified per Section 18.810.100.A.3, and the City of Tigard "Significant Habitat Areas Map". Methods and techniques for consideration may include, but are not limited to, the following:

- (1) Water quality facilities (for infiltration, retention, detention and/or treatment)
- (2) Pervious pavement
- (3) Soil amendment
- (4) Roof runoff controls
- (5) Fencing to guide animals toward safe passageways
- (6) Re-directed outdoor lighting to reduce spill-off into habitat areas
- (7) Preservation of existing vegetative and canopy cover

## **SECTION 18.370 – VARIANCES AND ADJUSTMENTS**

### **Commentary**

This amendment is identical to the text changed in Sect 18.810.030.A.7 (Streets, Improvements)

### **Code Amendments**

*18.370.020.C. – Special adjustments.*

11. Adjustments for street improvement requirements (Chapter 18.810). By means of a Type II procedure, as governed by Section 18.390.040, the Director shall approve, approve with conditions, or deny a request for an adjustment to the street improvement requirements, based on findings that the following criterion is satisfied: Strict application of the standards will result in an unacceptably adverse impact on existing development, on the proposed development, or on natural features such as wetlands, bodies of water, significant habitat areas, steep slopes or existing mature trees. In approving an adjustment to the standards, the Director shall determine that the potential adverse impacts exceed the public benefits of strict application of the standards.

## **SECTION 18.705 – ACCESS, EGRESS AND CIRCULATION**

### **Commentary**

*18.705.030 - General Provisions*

Add pervious paving surfaces to list of hard surfaced materials for required walkways.

### **Code Amendments**

*18.705.030*

- F.4. Required walkways shall be paved with hard surfaced materials such as concrete, asphalt, stone, brick, other pervious paving surfaces, etc. Any pervious paving surface must be designed and maintained to remain well-drained. Walkways may be required to be lighted and/or signed as needed for safety purposes.

## **SECTION 18.715 – DENSITY COMPUTATIONS**

### **Commentary**

*18.715.020.A – Density Calculations*

Definition of net development area currently deducts sensitive lands. Amend this definition to include "Significant Habitat Areas", which may also be deducted at the option of the developer.

#### 18.715.030 – Residential Density Transfer

The Basin recommendation suggests allowing all density to be transferred up to double the density allowed on the remaining (buildable) portion of the site.

At their September 25th work session, the Planning Commission considered the Tualatin Basin recommendation to allow “all development potential to be transferred” from qualified habitat areas. Staff proposed a density transfer provision based on the Tualatin Basin recommendation to augment existing regulations which provide density transfer/bonuses for the following:

- 100-yr floodplain, steep slopes and drainageways: Up to 25%;
- Wetlands: Up to 100% for land zoned R-12, R-25, and R-40;
- Tree retention: 1% bonus for each 2% of canopy cover, up to 20% ; and
- Planned developments: 1% bonus for each 5% of the gross site area set aside in open space, up to 5%.

The Planning Commissioners expressed concern that the lack of adequate design criteria, and the proposed administrative approval procedures, for permitting density transfers may result in development which is incompatible with the surrounding neighborhood. The Planning Commission decided to recommend to the City Council that code amendments be deferred until further consideration can be given to the design standards and review procedures for permitting density transfers within significant habitat areas. The issue should be added to the Planning Commission calendar for further discussion in the near term.

#### Code Amendments

##### 18. 715.020.A

Definition of net development area. Net development area, in acres, shall be determined by subtracting the following land area(s) from the gross acres, which is all of the land included in the legal description of the property to be developed:

1. All sensitive land areas:
  - e. Optional: Significant habitat areas, as designated on the City of Tigard “Significant Habitat Areas Map”.

##### 18.715.030 – Residential Density Transfer

###### A. Rules governing residential density transfer.

1. The units per acre calculated by subtracting land areas listed in Section 18.715.020 A. 1a - c from the gross acres may be transferred to the remaining buildable land areas subject to the following limitations:

- ~~1.~~ a. The number of units which can be transferred is limited to the number of units which would have been allowed on 25 percent of the unbuildable area if not for these regulations; and
- ~~2.~~ b. The total number of units per site does not exceed 125 percent of the maximum number of units per gross acre permitted for the applicable comprehensive plan designation.

- ~~B. 2. Additional rules governing residential density transfer~~ Wetlands. Units per acre calculated by subtracting land areas listed in Section 18.715.0320 A. 1d. from the gross acres may be transferred to the remaining buildable land areas on land zoned R-12, R-25, and R-40 subject to the following limitations:

1. a. The number of units which can be transferred is limited to the number of units which would have been allowed on the wetland area, if not for these regulations;
2. b. The total number of units per site does not exceed the maximum number of units per gross acre permitted for the applicable comprehensive plan designation.

**EB. Underlying development standards.** All density transfer development proposals shall comply with the development standards of the applicable underlying zoning district unless developed under the provisions of Chapter 18.440, Planned Development.

## **SECTION 18.765 – OFF STREET PARKING AND LOADING**

### **Commentary**

The Basin recommends removal of barriers to, and encourages the use of, pervious paving materials in parking areas and low traffic private streets (*equated with access drives*).

#### *18.765.040.B – Access Drives*

Address concern of design standards & subgrade limitations. Some type of maintenance agreement may be necessary (as with tree survival & street performance)

#### *18.765.050.D – Bicycle Parking*

Pavers are already allowed under the current standards. Address concern of design standards & subgrade limitations. Some type of maintenance agreement may be necessary (as with tree survival & street performance).

### **Code Amendments**

#### *18.765.040.B. – Access drives.*

5. Access drives shall be improved with an asphalt, ~~or~~ concrete, or pervious paving surface.  
Any pervious paving surface must be designed and maintained to remain well-drained; and

#### *18.765.040.H – Parking Space Surfacing*

1. Except for single-family and duplex residences, and for temporary uses or fleet storage areas as authorized in 18.765.040.H.3 and 4 below, all areas used for the parking or storage or maneuvering of any vehicle, boat or trailer shall be improved with asphalt, ~~or~~ concrete, or pervious paving surfaces. Any pervious paving surface must be designed and maintained to remain well-drained;
2. Off-street parking spaces for single and two-family residences shall be improved with an asphalt, ~~or~~ concrete, or pervious paving surface. Any pervious paving surface must be designed and maintained to remain well-drained;

#### *18.765.050 – Bicycle Parking Design Standards*

- D. Paving. Outdoor bicycle parking facilities shall be surfaced with a hard surfaced material, i.e., pavers, asphalt, concrete, other pervious paving surfaces, or similar material. This surface must be designed and maintained to ~~remained~~ well-drained.

## **SECTION 18.775 – SENSITIVE LANDS**

### **Commentary**

#### *18.775.010.G. Location*

Add significant fish and wildlife habitat areas to list of sensitive lands.

Intent of Amendments:

- Address recommendations for adjustments to site design standard (lot dimensions: setbacks, height, and lot area) by extending provisions to areas within, or adjacent to, significant habitat.
- Establish delineation methodology & set minimum criteria for significant habitat areas.
- Allow reduction of minimum density in significant habitat areas.

**Code Amendments**

**18.775.010 Purpose**

- G. Location. Sensitive lands are lands potentially unsuitable for development because of their location within:
1. The 100-year floodplain or 1996 flood inundation line, whichever is greater;
  2. Natural drainageways;
  3. Wetland areas which are regulated by the other agencies including the U.S. Army Corps of Engineers and the Division of State Lands, or are designated as significant wetland on the City of Tigard "Wetland and Stream Corridors Map"; ~~and~~
  4. Steep slopes of 25% or greater and unstable ground. (Ord. 05-01); and
  5. Significant fish and wildlife habitat areas designated on the City of Tigard "Significant Habitat Areas Map".

**18.775.100 Adjustment to Underlying Zone ~~Setback~~ Standards**

- A. Adjustment option. The Planning Director may approve up to 50% adjustment to any dimensional standard (e.g., setback height or lot area) of the underlying zone district to allow development consistent with the purposes of this section. The purpose of the adjustment process is to reduce adverse impacts on wetlands, stream corridors, fish and wildlife habitat, water quality and the potential for slope of flood hazards.
- B. Adjustment criteria. A special adjustment to the standards in the underlying zoning district may be requested under Type II procedure when development is proposed within or adjacent to the vegetated corridor area or within or adjacent to areas designated as "Strictly Limit" or "Moderately Limit" on the City of Tigard "Significant Habitat Areas Map." Verification of significant habitat boundaries shall be done in accordance with the procedures described in Section 18.775.140. In order for the Director to approve a dimensional adjustment to standards in the underlying zoning district, the applicant shall demonstrate that all the following criteria are fully satisfied:
2. Explicit consideration ~~has~~ been given to maximizing vegetative cover, minimizing excavation and minimizing impervious surface area on ~~un~~buildable land.
  3. Adjustment option. Design options have been considered to reduce the impacts of development, including but not limited to multi-story construction, siting of the residence close to the street to reduce driveway distance, maximizing the use of native landscaping materials, minimizing parking areas, minimizing hydrologic impacts and garage space.
6. Protected vegetated corridor, significant habitat areas and adjacent buffer areas must be:
- a. Placed in a non-buildable tract or protected with a restrictive easement; and
  - b. Restoration and enhancement of habitat and buffer areas required, including monitoring for five years.
- C. Reduction to Minimum Density Requirements for Developments That Include Inventoried Significant Habitat Areas. The minimum number of units required by Section 18.510.040 (Density Calculation) may be waived if necessary to ensure that impacts on habitat areas are minimized.

1. Approval criteria: Reduction requests will be approved if the review body finds that the applicant has shown that the following criteria are met:
  - a. An area of the property lot or parcel to be developed has been identified on the Significant Habitat Areas Map.” Verification of significant habitat boundaries shall be done in accordance with the procedures described in Section 18.775.140.
  - b. The proposal will be consistent with the character of the neighboring area.
  - c. The proposal will directly result in the protection of significant habitat areas through placement in a non-buildable tract or protected with a restrictive easement.
2. Procedure:
  - a. The amount of reduction in the minimum density shall be calculated by subtracting the number of square feet of inventoried significant habitat that is permanently protected from the total number of square feet used to calculate the minimum density requirement.
  - b. Requests for a reduction are processed as a Type II procedure along with the development proposal for which the application has been filed.

#### **18.775.140 Significant Habitat Areas Map Verification Procedures.**

The Significant Habitat Areas Map shall be the basis for determining the general location of Significant Habitat Areas on or adjacent to the site.

- A. Applicants who concur that the Significant Habitat Areas Map is accurate shall submit the following information to serve as the basis for verifying the boundaries of inventoried habitat areas:
  1. Submission requirements.
    - a. A detailed property description;
    - b. A scale map of the property showing the locations of Significant Habitat Areas, any existing built area, wetlands or water bodies, Clean Water Services’ vegetated corridor, the 100-year floodplain, the 1996 flood inundation line, and contour lines (2-ft. intervals for slope less than 15% and 10-ft intervals for slopes 15% or greater); and
    - c. A current aerial photograph of the property.
  2. Decision Process. The Planning Director’s decision shall be based on consideration of submitted information, site visit information, and other factual information. Should the applicant disagree with the Planning Director’s determination on the location of significant habitat areas on the property, the precise boundaries shall be verified by the applicant in accordance with the detailed delineation methodology outlined in Section 18.775.140.B.
- B. Applicants who believe that the map is inaccurate shall submit a detailed delineation conducted by a qualified professional in accordance with the following methodology to verify the precise boundaries of the inventoried habitat areas by means of a Type II procedure.
  1. Verifying boundaries of inventoried riparian habitat. Locating habitat and determining its riparian habitat class is a four-step process:
    - a. Locate the Water Feature that is the basis for identifying riparian habitat.
      - 1) Locate the top of bank of all streams, rivers, and open water within 200 feet of the property.
      - 2) Locate the 100-year floodplain or 1996 flood inundation line, whichever is greater, within 100 feet of the property.
      - 3) Locate all wetlands within 150 feet of the property. Identified wetlands on the property shall be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the U.S. Army Corps of Engineers.
    - b. Identify the vegetative cover status of all areas on the property that are within 200 feet of the top of bank of streams, rivers, and open water, are wetlands or are within 150 feet of wetlands, and are flood areas and within 100 feet of flood areas.
      - 1) Vegetative cover status shall be as identified on the Metro Vegetative Cover Map
      - 2) The vegetative cover status of a property may be adjusted only if (1) the property was developed prior to the time the regional program was approved, or (2) an error was made at the time the vegetative cover status was determined. To assert the latter type of error,

applicants shall submit an analysis of the vegetative cover on their property using summer 2002 aerial photographs and the following definitions of vegetative cover types in Table 18.775.1.

**Table 18.775.1**  
**Definitions of Vegetated Cover Types**

<u>Type</u>	<u>Definition</u>
<u>Low structure vegetation or open soils</u>	<u>Areas that are part of a contiguous area one acre or larger of grass, meadow, crop-lands, or areas of open soils located within 300 feet of a surface stream (low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, crop-lands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 feet of a surface stream and together form an area of one acre in size or larger).</u>
<u>Woody vegetation</u>	<u>Areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than 60% crown closure) located within 300 feet of a surface stream.</u>
<u>Forest canopy</u>	<u>Areas that are part of a contiguous grove of trees of one acre or larger in area with approximately 60% or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water feature.</u>

- c. Determine whether the degree that the land slopes upward from all streams, rivers, and open water within 200 feet of the property is greater than or less than 25% (using the vegetated corridor measurement methodology as described in Clean Water Services Design and Construction Standards); and
- d. Identify the riparian habitat classes applicable to all areas on the property using Table 18.775.2 and Table 18.775.3.

**Table 18.775.2**  
**Method for Locating Boundaries of Class I and II Riparian Areas**

<u>Distance in feet from Water Feature</u>	<u>Development/Vegetation Status</u>			
	<u>Developed areas not providing vegetative cover</u>	<u>Low structure vegetation or open soils</u>	<u>Woody vegetation (shrub and scattered forest canopy)</u>	<u>Forest Canopy (closed to open forest canopy)</u>
<u>Surface Streams</u>				
<u>0-50</u>	<u>Class II</u>	<u>Class I</u>	<u>Class I</u>	<u>Class I</u>
<u>50-100</u>		<u>Class II</u> <sup>2</sup>	<u>Class I</u>	<u>Class I</u>
<u>100-150</u>		<u>Class II</u> <sup>2</sup> if slope>25%	<u>Class II</u> <sup>2</sup> if slope>25%	<u>Class II</u> <sup>2</sup>
<u>150-200</u>		<u>Class II</u> <sup>2</sup> if slope>25%	<u>Class II</u> <sup>2</sup> if slope>25%	<u>Class II</u> <sup>2</sup> if slope>25%
<u>Wetlands (Wetland feature itself is a Class I Riparian Area)</u>				
<u>0-100</u>		<u>Class II</u> <sup>2</sup>	<u>Class I</u>	<u>Class I</u>
<u>100-150</u>				<u>Class II</u> <sup>2</sup>
<u>Flood Areas (Undeveloped portion of flood area is a Class I Riparian Area)</u>				
<u>0-100</u>			<u>Class II</u> <sup>2</sup>	<u>Class II</u> <sup>2</sup>

*The vegetative cover type assigned to any particular area was based on two factors: the type of vegetation observed in aerial photographs and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belonged. As an example of how the categories were assigned, in order to qualify as "forest canopy" the forested area had to be part of a larger patch of forest of at least one acre in size.*



<sup>2</sup> Areas that have been identified as habitats of concern, as designated on the Metro Habitats of Concern Map (on file in the Metro Council office), shall be treated as Class I riparian habitat areas in all cases, subject to the provision of additional information that establishes that they do not meet the criteria used to identify habitats of concern as described in Metro's Technical Report for Fish and Wildlife. Examples of habitats of concern include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.

**Table 18.775.3**  
**Tualatin Basin "Limit" Decision**

<b><u>RESOURCE CATEGORY</u></b>	<b><u>CONFLICTING USE CATEGORY</u></b>			
	<u>High Intensity Urban</u>	<u>Other Urban</u>	<u>Future Urban (2002 and 2004 additions)</u>	<u>Non-Urban (outside UGB)</u>
<u>Class I &amp; II Riparian Inside Vegetated Corridor</u>	<u>Moderately Limit</u>	<u>Strictly Limit</u>	<u>Strictly Limit</u>	<u>N/A</u>
<u>Class I &amp; II Riparian Outside Vegetated Corridor</u>	<u>Moderately Limit</u>	<u>Moderately Limit</u>	<u>Moderately Limit</u>	<u>Moderately Limit</u>
<u>All Other Resource Areas</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>
<u>Inner Impact Area</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>
<u>Outer Impact Area</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>

\* Vegetated Corridor standards are applied consistently throughout the District; in HIU areas they supersede the "limit" decision.

2. **Verifying boundaries of inventoried upland habitat.** Upland habitat was identified based on the existence of contiguous patches of forest canopy, with limited canopy openings. The "forest canopy" designation is made based on analysis of aerial photographs, as part of determining the vegetative cover status of land within the region. Upland habitat shall be as identified on the Significant Habitat Areas Map unless corrected as provided in this subsection.
  - a. Except as provided below, vegetative cover status shall be as identified on the Metro Vegetative Cover Map used to inventory habitat (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232).
  - b. The only allowed corrections to the vegetative cover status of a property are as follows:
    - 1) To correct errors made when the vegetative status of an area was determined based on analysis of the aerial photographs used to inventory the habitat. The perimeter of an area delineated as "forest canopy" on the Metro Vegetative Cover Map may be adjusted to more precisely indicate the dripline of the trees within the canopied area provided that no areas providing greater than 60% canopy crown closure are de-classified from the "forest canopy" designation. To assert such errors, applicants shall submit an analysis of the vegetative cover on their property using the aerial photographs that were used to inventory the habitat and the definitions of the different vegetative cover types provided in Table 18.775.1; and
    - 2) To remove tree orchards and Christmas tree farms from inventoried habitat; provided, however, that Christmas tree farms where the trees were planted prior to 1975 and have not been harvested for sale as Christmas trees shall not be removed from the habitat inventory.

- c. If the vegetative cover status of any area identified as upland habitat is corrected pursuant to 18.775.140.A.2.b.1. to change the status of an area originally identified as "forest canopy," then such area shall not be considered upland habitat unless it remains part of a forest canopy opening less than one acre in area completely surrounding by an area of contiguous forest canopy.

## **SECTION 18.810 – STREET AND UTILITY IMPROVEMENT STANDARDS**

### **Commentary**

The intent of these amendments is to address recommendations for reducing the amount of paving in habitat areas for roadways, sidewalks (planter strips), stream crossings and block length.

#### *18.810.030.A.7: Streets, Improvements*

In 2002, street widths were reduced with the TSP update following a great deal of negotiation with TVFR (BR). "Skinny" roadway widths are allowed on local streets if criteria is met. The code provides for adjustments to the Street Utility Improvement Standards to minimize adverse impact on natural features such as wetlands, steep slopes, or existing mature trees.

In order to further address recommendations to minimize paving, sidewalk reduction and narrow street right-of-ways through stream crossings, "significant habitat areas" shall be added to the list of natural features considered for adjustments to street improvement standards.

#### *18.810.040.B. Block Size*

Explicitly add "significant habitat areas" to the list of natural features precluding block size.

#### *18.810.070.C. Sidewalks, Planter Strip Requirement*

Explicitly add "habitat areas" to the list of significant natural features.

### **Code Amendments**

#### *18.810.030.A.7: Streets, Improvements*

The approval authority may approve adjustments to the standards of this chapter if compliance with the standards would result in an adverse impact on natural features such as wetlands, bodies of water, significant habitat areas, steep slopes, or existing mature trees.







#### *18.810.040.B. Block Sizes.*

1. The perimeter of blocks formed by streets shall not exceed 2,000 feet measured along the centerline of the streets except:
  - a. Where street location is precluded by natural topography, wetlands, significant habitat areas or ~~other~~ bodies of water, or pre-existing development; or

#### *18.810.070 Sidewalks*

- C. Planter strip requirements. A planter strip separation of at least five feet between the curb and the sidewalk shall be required in the design of streets, except where the following conditions exist: there is inadequate right-of-way; the curbside sidewalks already exist on predominant portions of the street; it would conflict with the utilities, there are significant natural features (large trees, water features, significant habitat areas, etc) that would be destroyed if the sidewalk were located as required, or where there are existing structures in close proximity to the street (15 feet or less). Additional consideration for exempting the planter strip requirement may be given on a case by case basis if a property abuts more than one street frontage.

# Proposed Significant Habitat Areas City of Tigard Oregon

-  Strictly Limit
-  Moderately Limit
-  Lightly Limit
-  Taxlot Boundary
-  Railroad
-  City of Tigard

The boundaries of inventoried habitat areas represent the general (and not precise) locations and are intended to be used to determine whether a site-specific delineation and determination is required.

This map was created as part of a detailed ESSE analysis by the Tualatin Basin Partners for Natural Places of Metro inventoried regionally significant riparian corridors and wildlife habitat. The map illustrates the Basin-wide Allow-Limit-Prohibit (ALP) decision, with the range of "Limit" divided into three levels—namely Lightly Limit, Moderately Limit, and Strictly Limit.

\*\* The information represented on this map is current as of October 12, 2006. Revisions will be made as new decisions or amendments occur to alter the content of the map.

0 100 200 300  
Feet



Source: City of Tigard  
Maple Ridge Community Center  
Washington County

City of Tigard  
City of Tigard  
City of Tigard

This map was created from several sources. The City cannot accept responsibility for any errors. Therefore, there is no warranty for the map. However, any modification of errors would be appreciated.

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http://www.tigard.gov

**CITY OF TIGARD**  
**PLANNING COMMISSION**  
**Meeting Minutes**  
October 16, 2006

**1. CALL TO ORDER**

President Inman called the meeting to order at 7:00 p.m. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

**2. ROLL CALL**

Commissioners Present: President Inman; Commissioners Buehner, Caffall, Meads, Vermilyea (arrived late), and Walsh.

Commissioners Absent: Commissioners Harbison and Munro

Staff Present: Dick Bewersdorff, Planning Manager; Beth St. Amand, Senior Planner; Denver Igarta, Associate Planner; Jerree Lewis, Planning Commission Secretary

**3. PLANNING COMMISSION COMMUNICATIONS AND COMMITTEE REPORTS**

Commissioner Walsh reported on the Tree Board. He advised that the Tree Board will attend a workshop with the Planning Commission on November 6<sup>th</sup> to discuss two proposed code amendments. At their last meeting, the Tree Board also discussed the Costco parking lot canopy.

Commissioner Buehner reported that the City Center Advisory Commission met last week. They decided to leave the rest of the design review issues to the discretion of the Planning Commission. They will start working on the Master Plan for the park and the outreach effort to the downtown property owners.

Commissioner Buehner also reported on the Transportation Financing Task Force. They are scheduled for public meetings on the 9<sup>th</sup> and the 30<sup>th</sup> to discuss the gas tax proposal.

Commissioner Meads reported on the Park and Recreation Advisory Board. They are working on financing for a start up recreation program in Tigard. They will be adding it to the budget for the next fiscal year. The Board would like to use existing resources as much as possible. They hope to have a pilot program with some classes and after school activities.

#### 4. APPROVE MEETING MINUTES

It was moved and seconded to approve the October 2, 2006 meeting minutes as submitted. The motion passed unanimously.

#### 5. PUBLIC HEARING

##### 5.1 COMPREHENSIVE PLAN AMENDMENT (CPA) 2006-00001/ DEVELOPMENT CODE AMENDMENT (DCA) 2006-00004 HABITAT- FRIENDLY DEVELOPMENT PROVISIONS

**REQUEST:** Amendments to the Tigard Comprehensive Plan (Volume I) and Community Development Code (Sections 18.360, 18.370, 18.705, 18.715, 18.765, 18.775, 18.810) in compliance with Statewide Planning Goal 5 and Metro Title 13 (Nature in Neighborhoods) to adopt the Significant Habitat Areas Map and to implement the recommendations of the Tualatin Basin Fish & Wildlife Habitat Program aimed at encouraging the use of habitat-friendly development practices. The proposed amendments will not result in increased development restrictions but will give developers the option to take advantage of greater regulatory flexibility in exchange for the use of habitat-friendly practices. Amendments will remove barriers to, and provide code flexibility for development that incorporates habitat-friendly techniques. The complete text of the proposed Code Amendment can be viewed on the City's website at [http://www.tigard-or.gov/code\\_amendments](http://www.tigard-or.gov/code_amendments). **LOCATION:** Citywide. **ZONE:** CBD, C-G, C-P, I-H, I-L, I-P, MUC, MUE, MUE-1, MUE-2, MUR-1, MUR-2, R-1, R-2, R-3.5, R-4.5, R-7, R-12, R-25. **APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.360, 18.370, 18.380, 18.390, 18.705, 18.715, 18.765, 18.775 and 18.810; Comprehensive Plan Policies 2, 3 & 4; Metro Functional Plan Title 3 and 13; and Statewide Planning Goals 1, 2, 5 and 6.

#### STAFF REPORT

Associate Planner Denver Igarta gave a PowerPoint presentation (Exhibit A) on proposed habitat-friendly development code amendments. He advised that the purpose of the amendments is to encourage the use of habitat-friendly development methods by implementing the Tualatin Basin Fish Wildlife Habitat Program. The intent is to convey a benefit to the developer in exchange for use of development practices that are sensitive to habitat on site. It is not intended to increase development restrictions. The program is a voluntary, incentive-based approach.

Igarta advised that the program would be in compliance with the Statewide Planning Goal 5 and Metro Functional Plan, Title 13. He noted that there are 3 steps involved with the inventory of habitat areas (a regional significant habitat inventory completed by Metro; an

assessment of conflicting uses - environmental, social, economic, energy [ESEE] assessment; development of a program).

The focus of the implementation phase of the program is on habitat-friendly development (a broad-range of techniques that reduce the impact on fish and wildlife habitat). There are two steps involved – remove barriers for the use of habitat-friendly practices and develop guidelines for using habitat-friendly development practices.

The Tualatin Basin Partners wrote a report for implementing the program to protect habitat. The recommendations included a list of 11 techniques of habitat-friendly development practices. In reviewing the techniques, Tigard determined that the City was substantially meeting a number of them through local ordinances already in use. However, there is a gap and some amendments are needed to address the rest of the techniques.

Igarta reviewed the significant habitat area map and described the habitat “limit” classifications. He detailed each of the proposed amendments for the Commission.

With regard to the proposed amendment for on-site density transfers, Igarta noted that the Planning Commission discussed this amendment earlier and decided not to support it at this time; they will revisit on-site density transfers at a later time.

Igarta advised that the Planning Commission would be holding a public hearing tonight and sending a recommendation to Council. City Council is scheduled for a workshop on November 21<sup>st</sup> and will hold a public hearing on the proposed amendments on December 12<sup>th</sup>.

Commissioner Buehner asked about the letter from Dayle Beach. He referred to a gap on Red Rock Creek along 72<sup>nd</sup> Ave. Igarta advised that when Metro did their inventory, they carried out the regional inventory. When the Tualatin Basin Partners took over the inventory, they performed a more specific district-wide inventory that looked more closely at resources on site and did an ESEE assessment. Complementary to this, we also have Clean Water Services (CWS) Design and Construction Standards which include vegetative corridor restrictions to development directly adjacent to streams. For the site Mr. Beach is referring to, those resources are protected by more strict regulations that are part of the CWS Design and Construction Standards. They supersede the habitat benefits provisions which are completely voluntary.

Commissioner Walsh asked about lot adjustments. Igarta answered that this provision allows the property owner to choose to resituate a building envelope to save resources; without the provision, there may be standards that restrict how that could happen. For example, the provision could allow a set back adjustment where the owner could put the structure closer to a lot line in order to preserve a resource on the other side of the site.

Igarta reported that, when staff was looking at the habitat-friendly recommendations, they did an extensive assessment of the existing code. Some of what is in the existing code covers a lot of the Tualatin Basin recommendations. Where there is a gap, there are standards in place that could be extended to the habitat areas. The proposed habitat-friendly code provisions are intended to complement the existing code to provide for preservation of significant habitat.

## **PUBLIC TESTIMONY – IN FAVOR**

None

## **PUBLIC TESTIMONY – IN OPPOSITION**

Fred Fields, 1149 SW Davenport, Portland, OR 97201, asked if the Tualatin Basin Partners were a legally constituted organization. Commissioner Buehner answered that the Partners were made up of representatives from all the jurisdictions in the Tualatin Valley. Metro delegated the responsibility of reviewing standards to this group. Each jurisdiction will review the recommendations and decide whether or not to implement them into their own codes. Igarta advised that the Tualatin Basin Partners submitted their program report to Metro. Metro adopted the program report, maps, and analysis as part of their Nature in Neighborhoods Program which has been adopted as a functional plan for the region.

Mr. Fields asked about compensation for property owners. President Inman advised that this will provide increased flexibility for builders. Commissioner Meads also noted that the measures are voluntary – property owners are not required to do anything that they wouldn't want to do.

Mr. Fields asked about increased density. The Commission advised that the density transfer portion of the proposed amendment is not going to be included with the rest of the code amendments at this time. That particular recommendation is being deferred for discussion at a later time. That section of the existing code is not going to change at this time.

Sue Bielke, 11755 SW 114<sup>th</sup> Place, Tigard, OR 97223 testified on several issues (a copy of her testimony is included as Exhibit B). She believes that the program proposed by the Tualatin Basin Partners would protect fewer habitats than the region-wide program. She noted that there are segments of some streams not shown on the significant habitat areas map, e.g., a tributary of Ash Creek located north of Cascade Blvd. a small permanent creek north of Tigard Street, and other gaps on the map for streams. In addition, she noted that some areas shown on the map indicate less protection for some habitat areas. She recommended that the current map not be adopted until corrections can be made.

Ms. Bielke believes that “strictly limit”, “moderately limit”, and “lightly limit” don’t give adequate protection to some resources. She would rather change it to “prohibit”, “strictly limit”, and “moderately limit”. She also recommends increasing buffer areas in some areas.

Ms. Bielke opposes the exemption for the Clean Water Services Healthy Streams Plan. By exempting CWS, citizens would not be allowed to comment on projects. Citizens should be able to ask questions and raise concerns about CWS projects.

Commissioner Meads asked about making modifications to the map. Staff advised that the process would be to obtain a form from Metro, provide documentation/support materials, and submit it all back to Metro. For delineation errors, the Tualatin Basin Partners are establishing a delineation methodology for how to verify precise boundaries of resources on site. The methodology will be adopted as part of the code amendments.

Igarta advised that the map is intended as a general location map which would trigger on-the-ground delineation. It is not intended to show the precise location of resources.

Commissioner Buehner asked if amendments would have to go through DLCD. Staff answered that amendments would go to Metro. Commissioner Buehner also asked what the process would be if she had an issue in terms of a particular spot. Staff answered that she would need to fill out the form at Metro. Metro updates their maps and verifies requests for changes. Metro staff reviews the documentation requirements to determine whether or not the materials are correct. They take action based on that determination. The map is updated on a regular basis, not necessarily immediately. There is no deadline for this. Map maintenance is a coordinated effort between Metro and the jurisdictions.

President Inman asked if the map itself will be going into the Comprehensive Plan. Staff answered yes, but we do not have an inventory that accurately maps all the resources. Sue Bielke said this could be something to add to the Comp Plan – a future comprehensive survey of resources (wildlife, fish, etc.) and make it a goal. The Commission noted that it would be extremely expensive to do this, but that additional changes could be made during the Comp Plan update process.

Commissioner Walsh asked if the public would not have an opportunity to comment, if the CWS exemption section was adopted. Dick Bewersdorff advised that exemptions are already in the code – they are uses that are allowed outright. He said this could be an area for the Comp Plan update and Zoning Code update. If it would result in more takings, there could be more ballot measure 37 issues. The Commission asked to what extent there is opportunity for public comment with respect to CWS Healthy Stream Plan projects. Staff answered that CWS would need to go through DSL for their Healthy Streams Plan projects, but there would be no opportunity for citizen input if they are exempt from sensitive lands review. Commissioner Vermilyea clarified that if we adopt this specific amendment, we are precluding public comment as it relates to Clean Water projects.



Commissioner Buehner noted that there is not a lot of leverage with CWS. She wonders why the City should give up the little bit of leverage we have for the convenience of CWS.

John Frewing, 7110 SW Lola Lane, Tigard, OR 97223, asked when an amendment for density transfer would be considered. The Commission advised that they will probably discuss it next year during the Comp Plan update.

Mr. Frewing asked that the record be held open for 7 days so he could have time to review materials he received in response to questions he had. Staff advised that this was a legislative hearing and the Commission would have to consider the request.

Mr. Frewing agreed with previous discussion about public testimony for CWS projects. He asked if the CWS exemption was part of the Tualatin Valley Partners recommendation for all jurisdictions. Staff answered yes.

Staff explained the process for map corrections to Mr. Frewing. The City would be notified whenever Metro maps are updated. Tigard would then update the significant habitat map. It was noted that the map only shows general areas of resources. When land is developed, the developer would have an analyst do the delineation. Map errors will show up during the development stage. The map acts as reference point, it is not specific or accurate as far as significant habitat areas.

Staff advised that the City is not proposing amendments to Volume II of the Comprehensive Plan at this time. The significant habitat map is part of the inventory, it's not regulatory. The purpose of the proposed regulations is to encourage habitat friendly development.

Regarding Code Section 18.360.090, Mr. Frewing suggested defining the word "consideration". Commissioner Buehner proposed looking at this as we go through Phase II of the Comp Plan process. Commissioner Vermilyea said that maybe a description of a process for demonstrating consideration could be used.

Mr. Frewing referred to the proposed list of innovative methods listed in Section 18.360.090.A.2.C. He suggested adding a 7<sup>th</sup> method - retaining vegetative cover and retaining canopy cover.

For Section 18.775.140 A.1.a.2, Mr. Frewing would like to see clarification of the term "flood areas". Commissioner Vermilyea suggested being consistent with the existing language under 18.775.010 (on page 5).

For Section 18.775.140 A.1.a.3, Mr. Frewing asked about unidentified wetlands – is there any obligation to pick those up? The Commission discussed changes to the proposed language [see motion for final proposed language].

Tim LeBrun, 13275 SW Greenfield Dr., Tigard, OR 97223, signed up to speak but left the meeting before doing so.

Duane Wilson, Five Centerpointe Drive, Suite #280, Lake Oswego, OR 97035, asked if this is voluntary, why delineate? If a developer chooses not to participate in habitat friendly construction, what recourse does the City have? The Commission answered that there is no recourse by the City; however, CWS has some requirements. It was noted that the regulations weren't intended to be voluntary when the discussions first began, but when Measure 37 passed, Metro had to make the regulations voluntary.

Mr. Wilson asked about limiting or prohibiting conflicting uses. Staff answered that the limit decision and conflicting use analysis are based on the process laid out by Statewide Goal 5 procedures for inventorying the resources. When assessing the ESEE consequences of the uses, the voluntary regulations encourage developers to take advantage of flexibility to protect resources.

Mr. Wilson asked about benefits for the developer. President Inman put forth a scenario where a developer is doing a project that involves a significant habitat and is being required to provide right-of-way for access. The developer could perhaps have the flexibility to narrow the street improvements to minimize the impact to the habitat. This flexibility may not be currently allowed. It could also allow a developer to take a benefit by using pervious asphalt for an apartment complex project. These regulations would give the developer the ability to do that, which is not currently in the code. These regulations allow the developer to take those kinds of measures/advancements, and do more green projects without being in conflict with the current code.

Mr. Wilson believes the term "limit or prohibit conflicting uses" should be defined. Staff advised that this term, as written in the staff report, is not in the Code. This is just background information, showing the process for Statewide Goal 5 rules. It will not be part of the Development Code.

Staff advised that delineation in sensitive lands would be required to take advantage of the program flexibility. If developers want to use the benefits from the program, they must do the delineation. They are not required to delineate habitat areas if they do not want to take advantage of the provisions.

Mr. Wilson asked, if the City is adopting the map into the Comprehensive Plan, wouldn't any change to the map require a Comp Plan Amendment? Staff advised that the map will be adopted as an inventory document; it's not part of Volume II which is the policy document. The map will be in Volume I, which consists of non-binding background information.

## **PUBLIC HEARING CLOSED**

After deliberation, the Commission modified some of the proposed code language. Commissioner Vermilyea then moved to recommend to City Council approval of the habitat-friendly development provisions and proposed amendments as presented, except as modified by the Planning Commission [noted below], including the staff report and testimony heard this evening. Modifications the proposed amendments include:

1. On page 2 of 10, under 18.360.090 A.2.c., add number 7 to read, "Preservation of existing vegetative or canopy cover."
2. On page 5 of 10, under 18.775.020 C. Exemptions – delete this section.
3. On page 6 of 10, under 18.775.140 A.1.a.2, change language to read: "Locate all 100-year floodplain areas or 1996 flood inundation line, whichever is greater, within 100 feet of the property."
4. On page 6 of 10, under 18.775.140 A.1.a.3, the first sentence shall end after the word "property"; the rest of the sentence shall be deleted. The second sentence shall read, "Identified wetlands on the property shall be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the U.S. Army Corps of Engineers."

Commissioner Buehner seconded the motion. A vote was taken and the motion passed unanimously.

## **6. COMPREHENSIVE PLAN UPDATE**

### **• NATURAL RESOURCES REPORT - Continuation**

Denver Igarta gave a PowerPoint presentation on Wetlands and Fish and Wildlife Habitat (Exhibit C). He advised that the wetland inventory was conducted in 1994 by a consultant. The local wetland inventory looked at significant habitat based on functional assessment. The City's Safe Harbor process puts regulatory restrictions on grading, excavation, placement of fill, and removal of vegetation.

Igarta reviewed the wetland statistics with the Commission. He noted that the local wetland inventory map was submitted to the Department of State Lands (DSL) and approved. It has been adopted as part of our Development Code. He advised that the consultant performed the inventory, which was approved by DSL. The map is maintained based on approved Comp Plan amendments and delineations that we receive from DSL. DSL sends us a notification if they have changed their map inventory. We are required to amend our maps to represent what the State has changed. Metro is not involved with this process.

Staff confirmed that there are two separate methods for determining wetlands inventory in Tigard – Metro and DSL. Typically, if there is a development proposal that would affect wetlands (to fill or remove wetland), the proposal has to go through the Comp Plan

amendment process to remove the Safe Harbor provisions and then is submitted to DSL so they can update their map. Until there is a development activity that will potentially have an adverse impact to a wetland, we may not know that the wetland exists. An on-the-ground delineation is a very expensive endeavor. Commissioner Vermilyea believes that if the City knew what is truly out there, there would be an opportunity to plan, protect, and be proactive. The current process is entirely reactive with regard to wetlands and habitat.

Senior Planner Beth St. Amand noted the local wetlands inventory was done in 1994, which set the baseline. There is a question about anything identified since then. Delineation is just a survey; there should also be an assessment, such as with the ESEE process, that should be done. There is a potential to make some changes when going through the Comp Plan update process.

Commissioner Vermilyea would like to be able to identify areas of concern that can be taken into consideration as the City goes through the Comp Plan process. The goal should be to have our information be as accurate and up-to-date as possible. It was suggested that there may be a way to gather supplemental work that has already been done.

Igarta explained the importance of coordination with other jurisdictions with regard to fish and wildlife habitat. He reviewed the statistics and findings of the fish and wildlife habitat analysis and the habitat map produced the Tualatin Basin Partners.

John Frewing noted that there have been dozens of developments in Tigard over the past several years. In some cases, they have included a natural resources assessment. He wonders if staff has incorporated that information from those individual applications onto this map. Staff answered that previous applications have not been examined to update the map. The map is intended to be a general location map.

President Inman asked the Commissioners if they thought they had enough information to evaluate where we are and what we want to do with the Comp Plan. Also, as part of the Comp Plan review, does the Commission want to spend the resources to prioritize and update the maps? Commissioner Buehner believes it would be a good idea to pull development applications where there are known wetland delineations. Staff noted that they would be limited to floodplain, drainageways, and buffers.

Commissioner Vermilyea believes that getting closer to reality on the maps, rather than general delineation, would be better than what we have now. President Inman noted that the maps are used to trigger an analysis for development. If the development has already occurred, why do we need to update the map that would no longer be used for a trigger for that site? She is more concerned about property that does not show the resources to generate further analysis. Staff suggested looking for a gap analysis now. It was noted that the information being presented at this point is a general overview of the different areas of the Comp Plan – types of resources, where they are located, etc.

**7. OTHER BUSINESS**

None

**8. ADJOURNMENT**

The meeting adjourned at 9:53 p.m.



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Jerree Lewis, Planning Commission Secretary

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ATTEST: President Jodie Inman

EX. A



## Habitat-Friendly Development Provisions

CPA 2006-00001 / DCA 2006-00004



October 16, 2006

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## Proposed Comprehensive Plan and Development Code Amendments

**Purpose**

- Encourage the use of "habitat-friendly" development methods by implementing the *Tualatin Basin Fish & Wildlife Habitat Program*
- In compliance with:
  - Statewide Planning Goal 5
  - Metro Functional Plan Title 13 (NIN)

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## What is Goal 5?

Oregon's 19 statewide planning goals are the framework for local land use planning programs

Statewide Planning <b>GOAL 5</b>	<p><b>Aims to protect</b></p> <ul style="list-style-type: none"><li>■ Natural resources</li><li>■ Scenic and historic areas</li><li>■ Open spaces</li></ul> <p><b>Provides guidelines for local governments</b></p> <ul style="list-style-type: none"><li>■ Inventory natural resources</li><li>■ Identify the most significant resources</li><li>■ Take steps to protect them</li></ul>
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### Implementation

#### Habitat-Friendly Development

Reduce detrimental impacts of development on fish and wildlife habitat.

#### Steps

- Remove barriers to the use of habitat-friendly practices
- Develop guidelines to encourage habitat-friendly development practices

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### Gap Analysis

Review existing regulations for consistency with "habitat-friendly development" recommendations of the Tualatin Basin.

#### Summary of Findings

- 11 recommendations were determined to be substantially met by existing regulations
  - Lot Coverage Flexibility
  - Parking Ratios
  - Shared Driveways & Parking
  - Parking Stall Dimensions
  - Parking Lot Landscaping
  - Location of Landscaping
  - Use of Native Plants
  - Tree Canopy Preservation
  - Minimum Lot Size Reduction
  - Maximize Street Tree Coverage
  - Use Stormwater Management Facilities

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## Proposed Amendments

### Based on Gap Analysis:

Amendments required to address the following:

- Adopt inventory of Significant Habitat Areas
- Site-specific delineation methodology
- Encourage habitat-friendly development practices
- Allow pervious paving for certain surfaces
- Modify net-buildable area and allow on-site density transfer from habitat areas
- Allow reduction to minimum density required
- Permit CWS Healthy Streams projects
- Lot dimensional adjustments for habitat areas
- Allow adjustments to street standards within habitat areas

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## Proposed Amendment

### Tigard Significant Habitat Areas

#### Proposed Amendment

- Adopt the *Significant Habitat Areas Map*
- Add *Significant Habitat Areas* to the list of Sensitive Lands

#### Purpose

Adopt a map to establish the general location of each habitat "limit" classification defined based on the ESEE analysis.

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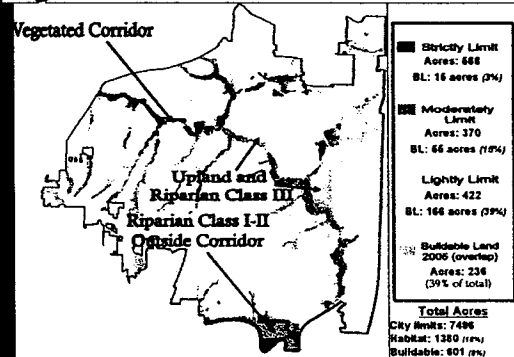
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## Significant Habitat Areas




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## Proposed Amendment

### Habitat Delineation Methodology

#### Proposed Amendment

- Incorporate a habitat delineation methodology based on Metro's Model Ordinance

#### Purpose

Establish procedures for verifying the precise boundaries of the inventoried habitat areas

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## Proposed Amendment

### "Habitat-Friendly" Development Methods

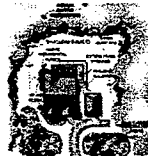
#### Proposed Amendment

- Innovative methods and techniques to reduce impacts to site hydrology and fish and wildlife habitat shall be considered.

- Water quality facilities
- Pervious pavement
- Soil amendment
- Roof runoff controls
- Habitat-friendly Fencing
- Re-directed outdoor lighting

#### Purpose

Encourage the use of techniques designed to reduce negative impacts on the environment.



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## Proposed Amendment

### Pervious Paving Materials

#### Proposed Amendment

- Add pervious paving to list of allowed hard surface materials for walkways, parking areas and access drives.



#### Purpose

Allow paving techniques which reduce impervious area and storm water runoff

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## Proposed Amendment

### On-Site Density Transfer

#### Tualatin Basin Recommendation

- Allow all development potential to be transferred from significant habitat areas to development area.

#### Planning Commission Consensus

- May result in development which is incompatible with the surrounding neighborhood
- Needs further consideration of appropriate design review standards and approval procedures
- Planning Commission decided to not support an amendment to allow density transfers at this time

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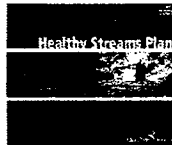
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## Proposed Amendment

### Permit Healthy Streams Projects

#### Proposed Amendment

- Exempt projects performed in coordination with the City to implement the CWS Healthy Streams Plan from sensitive land provisions.



#### Purpose

- Remove regulatory barriers to implementing HSP projects to improve watershed and stream health

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## Proposed Amendment

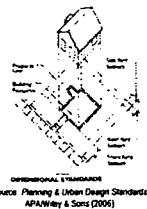
### Lot Dimension Adjustments

#### Proposed Amendment

- Extend area eligible for adjustment to the highest value riparian areas:
  - Strictly Limit – Riparian Habitat
  - Moderately Limit – Riparian Habitat

#### Purpose

- Allow flexibility to encourage habitat sensitive site designs



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### **Proposed Amendment**

#### **Minimum Density Requirement**

##### **Proposed Amendment**

- Allow reduction of minimum density requirements in significant habitat areas.

##### **Purpose**

Alleviate pressures and impacts on significant habitat areas resulting from minimum density requirements

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### **Proposed Amendment**

#### **Adjustment to Street Standards**

##### **Proposed Amendment**

- Add significant habitat areas to the list of natural features eligible for adjustments to street improvement standards.

##### **Purpose**

Allow for reductions to required paving within significant habitat areas.



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### **Schedule**

- Public Hearing – Oct 16  
Recommendation to the City Council
- City Council Work Session – Nov 21
- Council Public Hearing – Dec 12

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E4.B

October 16, 2006

To: Tigard Planning Commission, City of Tigard

Re: Comments on Proposed Changes to Tigard Comprehensive Plan and Community Development Code (see applicable sections below), in compliance with Statewide Planning Goal 5 and Metro Title 13 (Nature in Neighborhoods), and adoption of the Significant Habitat Areas Map.

We are writing to comment and submit recommendations regarding the proposed changes to above referenced plans and map. We are very concerned about the proposed changes as we do not feel they will adequately protect and enhance our existing remaining natural resources in the City of Tigard, in particular habitats for certain species such as the State Listed Western Painted and Pond Turtles, and rare plant communities, such as the Willamette Prairie/Oak habitats that remain in our city. The Tualatin Basin Fish and Wildlife Habitat Program, in which Tigard is a partner and was actively involved in developing, would protect less habitat (estimated at 10-30%) than the region-wide program adopted by other cities in the region. Citizens in Tigard care about their fish, wildlife, and habitats, and do NOT want less and weaker protections for those resources.

- **COMPREHENSIVE PLAN / NATURAL RESOURCE SECTION**

- **Proposed Significant Habitat Areas Map –**

- Upon reviewing this map, we find that portions or entire segments of some streams are not even on the map; this includes 1) a tributary of Ash Creek, located north and south of Cascade Blvd; 2) a small, permanent creek located north of Tigard Street just northeast of its junction with SW 115<sup>th</sup> street. 3) Other areas, such as the open space on the Fowler school district property on Tigard street, show a reduction in protections for wetlands, uplands, etc., as compared to the current Significant Habitat Areas Map. We do not agree with this change on the Fowler site, and dispute how and why other changes on the map were made that resulted in less habitat protection. This is important, as it proposes to REDUCE overall, the amount of habitat protected in the City of Tigard for a variety of species that use these habitats, including State listed native turtles which overwinter and nest up to ¼ mile from a body of water, Neotropical songbirds including several declining in their range, and the State listed Northern Red-legged Frog. We strongly recommend this map NOT be adopted until corrections can be made. Since we have inventory data for many areas in Tigard from our surveys, we will gladly share this with staff working on the Map to ensure corrections are made.
    - Regarding above Map, we recommend that the “Strictly Limit, Moderately Limit and Lightly Limit” be changed, in this order, to “Prohibit, Strictly Limit, and Moderately Limit”. This would afford greater protections to streams and adjacent riparian habitats that have some of the greatest biological diversity left in our city, including rare neotropical migratory songbirds such

as Willow Flycatchers, State Listed Painted and Pond Turtles and Red-legged Frogs. Tigard's current 3 categories would inadequately protect the above listed species, since it would not give strong enough protections for example, for overwintering sites on land for turtles, which need to be free of disturbance, and habitat for red-legged frogs, which need and can be found up to ¼ mile from a water source during much of the year, using these areas for resting, cover, feeding, and overwintering. Allowing even strictly limited development, such as a trail, to be put in these habitats for these State listed species has the potential to be extremely disruptive and have both short and long-term negative impacts to these imperiled species.

- Regarding above Map, we also recommend increasing buffer areas to up to 500-1000' in some areas, in particular where State listed Sensitive species occur. This would more adequately meet the intent of Goal 5, which is to ensure long-term protections and conservation of our natural resources. This additional increase in the buffer size would also help in catastrophic scenarios, such as 100year flooding, which can greatly alter habitats and cause major environmental damage.

- **COMMUNITY DEVELOPMENT CODE**

- **18.715.030** – We oppose the Basin recommendation allowing all density to be transferred up to double the density allowed on the remaining buildable portion of the site. This is ridiculous, as it would most likely result in for example, no trees to be preserved on the site since the developer would have no room to preserve trees. Tigard is already allowing too much density, and this proposal further would impact resources since it would place a greater burden on parks, trails, etc., to have to accommodate double the number of people allowed on a development. If the Basin program is to be seriously considered a plan to PROTECT NATURAL RESOURCES, than it needs to not allow any more density than is currently allowed.
- **18.715.020.A.1** – We recommend that the “e” proposed to be added should be mandatory, not “optional” as is currently recommended, as all lands on the Map are “sensitive” in nature.
- **18.775.020.C** – Exemptions – **We absolutely do not support exempting the CWS Healthy Streams Plan from provisions of this section.** Doing so would prohibit citizens from reviewing and commenting on proposed plans affecting our public natural resources in the city. In addition, #5. currently exempts routine maintenance or replacement of existing public facilities projects from this provision, and we also recommend NOT allowing this as an exemption. Too many times we have seen areas in greenways and open spaces be demolished by storm water projects and other activities, where roads are put into relative pristine open spaces, trees and all vegetation is bulldozed and wildlife is lost. These activities must not be exempt from public comment and scrutiny.

- 18.360.090A.2.b. Approval Criteria – We recommend that the wording be changed to “Trees must be preserved .....”, in order to more adequately protect our natural resources in our city; the present “shall” is too often left open to such a degree to interpretation that in many developments NO trees are left on the site at all.
- 18.775.020.B.1 and 7. – We recommend that accessory uses such as lawns, gardens, etc. have to have a permit if a landowner proposes to put such in a floodplain, etc., since lawns, etc. provide zero habitat and in fact often increase the amounts of fertilizers, etc. used and going into a nearby waterway. If someone has a forested area and wants to turn it into a lawn, they should have to get a permit and justify what it is alright to do this. We recommend the same with fences (#7) as they also can restrict the movement of wildlife through an area and greatly disrupt movement through an area for many species of wildlife.

In conclusion, we recommend greater protections for our natural resources than what is being proposed by the Basin Plan and Tigard’s proposed revisions to the Significant Habitat Areas Map. We believe our quality of life, as well as the continued protection of our natural resources in our city, demands a larger area of habitat be preserved, greater buffers, etc., in order to ensure our resources are protected and truly meet the intentions of Goal 5 and that of the Metro Title 13.

Thank you for consideration of these comments/recommendations.

Sincerely,



Sue Beilke, Director  
The Biodiversity Project of Tigard

Ex.C

## Comprehensive Plan Update Natural Resources

### WETLANDS / FISH & WILDLIFE HABITAT



Denver Igarta, Associate Planner

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## Natural Resources Overview

### October 2:

- Streams and Riparian Areas
- Groundwater
- Minerals (Geology, Aggregate Resources & Soils)

### October 16:

- Wetlands
- Fish and Wildlife Habitat

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## WETLANDS

### FUNCTIONS

- Aesthetic, Educational and Recreational Values
- Ecological
  - Flood Control
  - Water Quality
  - Aquatic & Terrestrial Habitat



Source: [www.epa.gov/owow/wetlands/wetlands.html](http://www.epa.gov/owow/wetlands/wetlands.html)

### Potential Threats

- Encroachment by development, altered drainage patterns, pollution and nuisance plant species.

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## WETLANDS

### FEDERAL / STATE PLANNING & PERMITTING

- US Army Corps –federal permitting for compliance with Section 404 of the CWA and Section 10 of the Rivers and Harbors Act
- Oregon Statewide Planning Goal 5
- Oregon DSL
  - Approves Local Wetlands Inventories (LWI)
  - State permitting for removal and fill in wetlands

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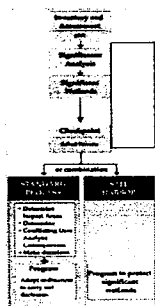
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## WETLANDS

### GOAL 5 INVENTORY PROCESS

- Local Wetland Inventory (LWI)
- Significance Determination
- Alternate Processes
  - Standard ESEE
  - Safe Harbor




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## WETLANDS

### SAFE HARBOR PROTECTIONS

**Locally Significant Wetland (LSW):**  
Wetlands which ranked highest on four of the assessed ecological functions (i.e. wildlife habitat, fish habitat, water quality & hydrologic control)



Regulatory restrictions on:

- Grading
- Excavation
- Placement of fill
- Vegetation removal

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## WETLANDS

### STATISTICS & FINDINGS

- The City has 120 wetlands cover approximately 287 acres
- Roughly 99% of the City's wetlands are classified as "locally significant wetlands,"
- In 1997, the City adopted "safe harbor" protections for locally significant wetlands
- Since 1997, approved hardship variances amount to a net loss of 0.45 acres of significant wetlands.
- Sensitive Lands Provisions - "significant" wetlands & CWS "vegetated corridor" buffer

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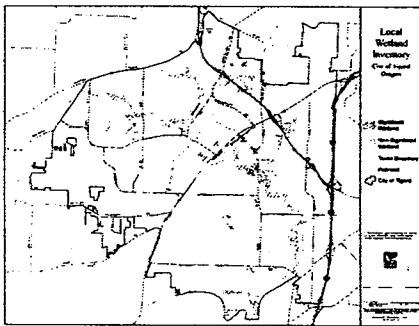
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## CITY OF TIGARD WETLANDS



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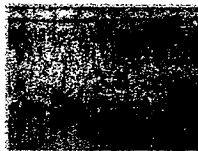
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## FISH & WILDLIFE HABITAT

### FUNCTIONS

- Enable fish and wildlife species to meet their most basic needs (food, water, mobility, security and reproduction)
- Vegetation has aesthetic value, controls runoff and erosion, moderates temperatures, reduces air pollution and provides protective cover for wildlife



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## FISH & WILDLIFE HABITAT

### COORDINATION

- Federal Endangered Species Act
- Oregon Statewide Goal 5
  - Procedures for compliance
- Oregon Natural Heritage Program – listed species
- Oregon Fish and Wildlife – species and habitat data

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## FISH & WILDLIFE HABITAT

### COORDINATION (cont.)

- Metro Nature in Neighborhoods – Title 13, functional plan for riparian and upland wildlife habitat
- Inventory of regionally significant riparian and upland habitat areas
- Tualatin Basin Partners for Natural Places



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## FISH & WILDLIFE HABITAT

### COORDINATION (cont.)

Tualatin Fish and Wildlife Habitat Program intended to complement:

- Clean Water Services (CWS)
  - Design and Construction Standards
  - Healthy Streams Plan
  - Stormwater Management Plan
- Existing local regulations
  - Tigard Development Code
    - Sensitive Lands
    - Tree removal

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## FISH & WILDLIFE HABITAT

### STATISTICS & FINDINGS

- Metro "vegetative cover" map shows roughly 11% of the City is covered by forest canopy (2002)
- Inventoried "significant" habitat in Tigard is heavily concentrated adjacent to local stream corridors – nearly 80% classified as riparian habitat.
- Roughly 20% of City's "significant" habitat is classified as upland resources.

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## FISH & WILDLIFE HABITAT

### STATISTICS & FINDINGS (cont.)

Tualatin Basin Economic, Social, Environmental and Energy (ESEE) findings of the inventoried regionally significant habitat:

- 588 acres designated as highest-value (strictly limit)
- 370 acres was designated as medium-value (moderately limit)
- 422 acres was designated as lower-value (lightly limit)

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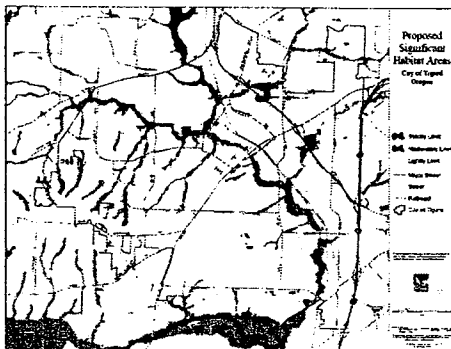
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## FISH & WILDLIFE HABITAT MAP



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THANK YOU!

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# MEMORANDUM

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TO: City Council

FROM: Denver Igarta, Associate Planner

RE: Response to the October 16<sup>th</sup> Public Hearing Issues and Comments  
*CPA 2006-00001/DCA 2006-00004*

DATE: November 7, 2006

The following documents staff responses to issues brought up and written comments submitted at the October 16, 2006, public hearing.

**Administrative Procedures for Verification of Precise Boundaries:** The Significant Habitat Areas Map is intended to establish the “general”, and not precise, location of significant riparian and upland habitat areas according to classification (i.e. “strictly”, “moderately” and “lightly” limit). The proposed habitat-friendly development provisions rely on a voluntary approach to preserving habitat and their utilization within inventoried significant habitat areas would not be mandatory.

The proposed site-level delineation methodology (Section 18.775.140) is based on Metro’s model ordinance and provides procedures for verifying the precise boundaries of the inventoried habitat areas. Site-specific delineations to verify precise boundaries are not to be considered a comprehensive plan amendment.

Following the adoption of local implementing ordinances, each jurisdiction will be responsible for administering procedures for verifying the city’s adopted map deemed by Metro to be in substantial compliance with Title 13 of the Urban Growth Management Functional Plan.

**Portions of Streams are Unmapped:** Metro’s fish and wildlife habitat inventory, which served as the basis for the proposed Significant Habitat Areas Map, was completed in compliance with Statewide Goal 5 rules and based on an extensive scientific literature review which combined geographic information system (GIS) mapping technology, scientific recommendations, and fieldwork.

Metro utilized current data on stream locations provided by Clean Water Services in conducting their inventory of riparian habitat areas and designated significant riparian habitat based on microclimate & shade, streamflow and water storage, bank stabilization, sediment and pollution control, woody debris and channel dynamics, and organic matter input.

In October 2006, the Oregon Land Conservation and Development Commission (LCDC) approved acknowledgment of Metro’s Goal 5 (Title 13) inventory and program. Any provisions that go

beyond Metro's Title 13 program or map must be formed following State Goal 5 procedures and be submitted directly to LCDC for approval.

Clean Water Services has created digital geographic information system (GIS) files mapping streams based on data surveyed and collected in the field in 2000 and 2001. All streams within Tigard (whether perennial or intermittent) are designated by definition as "sensitive areas" under Clean Water Services' Design and Construction Standards, which establishes adjacent "vegetated corridor" buffers, requires a natural resource assessment for proposed development and mandates restoration of corridors in marginal or degraded condition.

**Regulatory Protections:** Existing regulations (which will still apply), including standards contained in the City of Tigard Community Development Code and CWS Design and Construction Standards, are more restrictive and therefore supersede the proposed voluntary habitat-friendly development provisions.

Both the Metro Nature in Neighborhoods Program and the Tualatin Basin Fish and Wildlife Habitat Program rely on voluntary, incentive-based approaches for proposed development outside those areas already subject to existing regulations. Further restrictions on development which go beyond the scope of this application should be addressed as part (and incorporated into) the larger Comprehensive Plan update process and any subsequent code enhancements identified for the City's local implementing ordinances.

**Deducting Significant Habitat Areas from Net Development Area:** The proposed code amendment would give developers the "option" of deducting inventoried significant habitat from the "net acre" as recommended by the Tualatin Basin Goal 5 Program Implementation Report.

Agenda Item #  
Meeting Date

11/21/06

**COUNCIL AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

**Issue/Agenda Title:** Memorandum of Understanding (MOU) between Washington County, its Jurisdictions and Service Districts, to Not Extend Services to Development Outside the Urban Growth Boundary that Result from Measure 37 Claims

Prepared By: Ron Bunch

Dept Head Approval:

TC  
RB

City Mgr Approval:

CR

**ISSUE BEFORE THE COUNCIL**

Should the Council delay signing a Memorandum of Understanding with Washington County and other jurisdictions to prohibit extending services to Measure 37 development outside of the Urban Growth Boundary?

**STAFF RECOMMENDATION**

Staff recommends that Council delay signing the Memorandum of Understanding (MOU) until additional information can be gathered about specific concerns. If Council concurs, staff will discuss these matters with the Washington County Planning Directors and other stakeholders and bring the MOU back for its consideration at a later date.

**KEY FACTS AND INFORMATION SUMMARY**

This matter is proposed for Council consideration because a Memorandum of Understanding (MOU), limiting the extension of services outside the UGB, will likely be before all of Washington County's jurisdictions in the near future. The MOU was initiated by Washington County several months ago and has been discussed a number of times by the Washington County Planning Director's group.

Because of its broad distribution, it is important that Council be informed of this matter. The purpose of the MOU is to establish mutual understanding between Washington County, its jurisdictions and service districts regarding water and sewer service extensions to development outside the Urban Growth Boundary (UGB) that results from the approval of Measure 37 claims. The MOU commits jurisdictions to not extend urban services in these circumstances. State law, administrative rules and Metro requirements already prevent service extensions outside the UGB. However, it is felt that the MOU is a good idea because it underscores the state's requirements and demonstrates concurrence by all parties.

Staff recommends a "go-slow" approach because it has taken a new look at the MOU in view of Washington County's recently declared 2007 state legislative agenda. The legislative agenda causes concerns about the County's future urban development role. There could be negative consequences for cities if the County promotes urban level development in unincorporated areas. The Tigard Water District Board considered this matter at its October 23, 2006 meeting. Board members decided to delay signing, pending additional information.

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## OTHER ALTERNATIVES CONSIDERED

Alternatively, Council may decide additional information is not necessary and direct staff to prepare a resolution to sign the MOU.

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## COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

Clarify City's Position on the Provision of Urban Services to Unincorporated Areas and in the Best Interests of the Citizens of Tigard.

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## ATTACHMENT LIST

Attachment No. 1 - Council Memorandum from Staff

Attachment No. 2 - Proposed Washington County / Area Jurisdiction Memorandum of Understanding

Attachment No. 3 - Washington County Legislative Agenda for Urbanization

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## FISCAL NOTES

Not Applicable





# MEMORANDUM

TO: Mayor Craig Dirksen and Council Members

FROM: Ron Bunch, Long Range Planning Manager

RE: Proposed Washington County Memorandum of Understanding (MOU)

DATE: 10-27-06

## INTRODUCTION

This memorandum conveys background information about this issue and a recommendation for Council action.

## BACKGROUND / DISCUSSION

Washington County Planning Directors and Metro representatives have been working on the proposed MOU for several months. Its purpose is to establish a mutual understanding between Washington County, its jurisdictions and service districts regarding service extensions to development outside the Urban Growth Boundary (UGB) caused by approval of Measure 37 claims. The MOU commits jurisdictions to not extend urban services in this circumstance.

There has been comment from some members of the Washington County "Planning Directors Group" that, in principle, state law, Metro requirements and land use administrative rules already prevent urban service extensions outside the UGB. However, it is felt that the MOU is basically a good idea, because it underscores the state's requirements.

Staff recommends a go-slow approach because it has taken a new look at the MOU in view of Washington County's recently declared 2007 state legislative agenda. In general the legislative agenda causes concerns about the County's future urban development role. There could be negative consequences for cities if the County promotes urban level development in unincorporated areas.

Some specific provisions in the MOU raise these concerns. For example, it proposes that services not be extended outside the UGB to resource lands except as allowed by Washington County's comprehensive plan. Staff feels it is not possible to predict the future of the County's plan. Could the County's plan be amended in the future to allow the extension of services resulting in more unincorporated urban development? This could be detrimental to cities and contrary to Metro's goals. Also staff believes other MOU issues should be addressed, such as:

- Would exception lands outside the UGB be subject to the same service restrictions as resource land? The MOU does not specifically state so. Staff believes it should.
- Important terms, such as “rural land” should be defined in the context of where and where not services may be provided; and
- The MOU states that results of Metro’s New Look planning effort, specifically the future “Shape of the Region” report should be used to guide where future urban growth should be. Staff feels that before agreeing to this provision, Metro’s work should be completed, reviewed by stakeholders, and then adopted by Metro with the concurrence of local jurisdictions.

Staff recently discussed the MOU with the Tigard Water District Board and explained the above issues. The board’s consensus was that it should delay consideration of signing until the above matters are more fully explained.

## **RECOMMENDATION**

Washington County has stated that there is no urgency to sign the MOU. Therefore, based on this and the above, staff recommends that the City Council, like the Tigard Water Board, not sign the document until the above concerns are suitably addressed.

If Council concurs, staff will discuss these matters with the Washington County Planning Directors and other stakeholders and bring the MOU back for its consideration at a later date.

C: Chair Bev Froude and Members of the Tigard Water Board  
Tom Coffee, Community Development Director

8-09-06 DRAFT

**MEMORANDUM OF UNDERSTANDING****EXTENSIONS OF PUBLIC WATER AND SEWER SERVICES TO MEASURE 37-RELATED URBAN DEVELOPMENTS IN RURAL WASHINGTON COUNTY**

This Memorandum of Understanding (MOU) is entered into between Metro, Washington County, cities and service districts as evidenced by the signatures provided below.

**Recitals.**

1. Measure 37 has potentially increased the demand for the extension of public water and sewer services to rural land in Washington County.
2. The existing regulations governing the extension of public water and sewer service do not consider the impact of Measure 37 on development of rural land.
3. Metro, Washington County, cities and special districts are concerned that without adequate planning, the increase in demand for the extension of public water and sewer services to rural lands outside of an Urban Growth Boundary (UGB) may have adverse impacts on the level of service being provided to their urban customers and on the orderly and efficient transition from rural to urban land uses.
4. This MOU does not apply to the construction of public water or sewer facilities across lands located outside of UGB's in order to provide water or sewer services to urban areas located inside UGB's.
5. The affected jurisdictions wish to provide a coordinated framework for implementing existing law and developing new policy to address these concerns.

**Terms.**

The parties to this MOU understand as follows:

1. In Washington County there are a variety of regulations governing the extension of public sewer and water service provided under state, regional and local law including but not limited to the following:
  - A. Under the Metro Code, extraterritorial extensions of public sewer and water from inside the Metro UGB to serve lands outside of the Metro UGB are prohibited.
  - B. Outside of the Metro area state law prohibits, with limited exceptions, extensions of public sewer from inside a UGB to serve lands outside a UGB.
  - C. State law also prohibits, with limited exceptions, extensions of public sewer outside of a UGB to serve lands outside of a UGB.

- D. The Washington County Comprehensive Plan prohibits, with limited exceptions, extensions of public sewer or water to serve resource lands.
2. Existing regulations restricting public sewer and water service extensions that apply to the service provider rather than restricting the private use of real property are not subject to compensation or waiver under Measure 37.
  3. Service providers and the jurisdictions responsible for approving a request for an extension of service are required to comply with these existing regulations that cannot be waived under Measure 37.

**Agreement:**

Therefore, due to the potential impact of extending public sewer and water service to new development on rural land, the parties to this MOU agree to:

1. Assure ongoing compliance with existing law by prohibiting:
  - (a) extraterritorial extensions of public sewer or water service outside of the Metro UGB consistent with the Metro Code;
  - (b) extensions of public sewer outside of a UGB not in the Metro area except as otherwise provided under the Oregon Administrative Rules;
  - (c) extensions of public water service to serve new development located on resource land with limited exceptions, as otherwise provided in the Washington County Comprehensive Plan;
  - (d) connections to existing public sewer or water service lines located outside of a UGB designed to serve new development located on resource land except as otherwise provided in the Washington County Comprehensive Plan;
2. Permit reasonable exceptions as allowed by state or other laws including, but not limited to, extensions intended to resolve a public health hazard.
3. Coordinate the planning of future urban services by utilizing the results of Metro's 'Shape of the Region' element of the "New Look at Regional Choices", which will help determine the appropriate location(s) for future urban development.

Parties to this Agreement.

Portland Metropolitan Service District:

Washington County:

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City of Beaverton

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City of Sherwood:

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City of Tualatin:

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City of Tigard:

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City of Forest Grove:

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City of Cornelius:

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City of Hillsboro:

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City of Banks:

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City of North Plains:

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City of Gaston:

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City of Wilsonville:

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Tualatin Valley Water District:

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Washington County Clean Water Services  
District

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## **MEMORANDUM OF UNDERSTANDING**

### **EXTENSIONS OF PUBLIC WATER AND SEWER SERVICES TO MEASURE 37-RELATED URBAN DEVELOPMENTS IN RURAL WASHINGTON COUNTY**

This Memorandum of Understanding (MOU) is entered into between Metro, Washington County, cities and service districts as evidenced by the signatures provided below.

#### **Recitals.**

1. Measure 37 has potentially increased the demand for the extension of public water and sewer services to rural land in Washington County.
2. The existing regulations governing the extension of public water and sewer service do not consider the impact of Measure 37 on development of rural land.
3. Metro, Washington County, cities and special districts are concerned that without adequate planning, the increase in demand for the extension of public water and sewer services to rural lands outside of an Urban Growth Boundary (UGB) may have adverse impacts on the level of service being provided to their urban customers and on the orderly and efficient transition from rural to urban land uses.
4. This MOU does not apply to the construction of public water or sewer facilities across lands located outside of UGB's in order to provide water or sewer services to urban areas located inside UGB's.
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3. Coordinate the planning of future urban services by utilizing the results of Metro's 'Shape of the Region' element of the "New Look at Regional Choices", which will help determine the appropriate location(s) for future urban development.

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Washington County:

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City of Beaverton

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City of Tualatin:

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City of Forest Grove:

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City of Hillsboro:

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City of North Plains:

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City of Wilsonville:

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Washington County Clean Water Services  
District

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City of Sherwood:

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City of Tigard:

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City of Cornelius:

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City of Banks:

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City of Gaston:

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Tualatin Valley Water District:

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**draft draft draft draft draft**

## 2007 WASHINGTON COUNTY STATE LEGISLATIVE AGENDA

- **Urbanization Package:**

- Financial

- Transportation Funding – Support gas tax increase and indexing; vehicle registration fee increase that is dedicated to local road maintenance and preservation.
    - Urban Development Area Franchise Fees – Introduce legislation to allow highly urbanized areas to collect utility franchise fee if used to provide portion of financial base for countywide infrastructure investments.
    - Urbanizing Areas Growth Financing – Introduce legislation to allow highly urbanized areas to capture the property tax increment stemming from new construction if used to provide portion of financial base for countywide infrastructure investments.
    - Urban Growth Boundary Expansion Capital Gains Assessment – Introduce legislation to allow highly urbanized areas to tax gain property owner receives for land brought into UGB if used to provide portion of financial base for countywide infrastructure investments.
    - Strategic Investment Program (SIP)
      - Process: Introduce legislation that prescribes when and how county and city will be involved in process of soliciting business firm to apply for a SIP.
      - Gain sharing: Introduce legislation to establish eligibility of taxing jurisdictions that forgo property taxes for SIP to receive percent of income taxes generated by business firm receiving the incentive.

- Land Use

- Urban Reserves – Support legislation to allow use of IGA among cities, county and Metro to identify agriculture areas eligible for inclusion into UGB over a 20 year + period. Amend definition of primary/secondary lands so that class of soil does not alone determine which farm land should be protected.
    - UGB Expansion Schedule (20 year land supply) – Expand statutory cycle for expanding the regional UGB to accommodate the next 20-years' growth from five to seven years.

- Governance

- Incorporation of Municipality – Clarify a county's authority to establish standards that assure a new city will be financially sustainable.

- **Court Facilities funding** – Seek appropriation to offset the impact of providing suitable and sufficient facilities for new judgeships created in Washington County.
- **Community Correction funding** – Support appropriation to fund budget for Oregon Department of Corrections Grant Program at a level consistent with the agreement embodied in House Bill 2432, 1999 Oregon Legislature.
- **Affordable Housing** – Support Housing Alliance of Oregon efforts to seek funds dedicated to affordable housing fund.
- **Bicycle Safety** – Support funding for bicycle rider roadside memorials (Descansos) and bicycle safety program using dedicated auto license plate fee.

**Key Tasks:**

- Board adoption of 2007 Agenda (November 7, 2006)
- Meet with Governor on SIP law changes and urbanization needs
- Hire consultant for assistance in Salem
- Meet with Senators Deckert, Johnson, Devlin, B. Starr, & Rep Greenlick on Urbanization Package. (others as time permits)
- Legislative briefing on Public Safety (Senators' Devlin, Burdick, Johnson & Rep Barker)
- Obtain Pre-session sponsors to file bills regarding Urbanization Package
- Legislative dinner to discuss Urbanization Plan and 2007 agenda

9/25/2006

Agenda Item #  
Meeting Date

5  
November 21, 2006

**COUNCIL AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/Agenda Title Fanno Creek Park Master Plan RFP

Prepared By: Phil Nachbar Dept Head Okay PC City Mgr Okay CP

**ISSUE BEFORE THE COUNCIL**

Staff is proceeding with a Request for Proposals (RFP) to develop a master plan for Fanno Creek Park and the Public Use Area in Downtown Tigard, and is requesting Council to review and provide comment on the RFP and public process.

**STAFF RECOMMENDATION**

Review, and comment on, the proposed RFP and process for the Fanno Creek Parks Master Plan or modify the attached summary of the RFP for Fanno Creek Park and the Public Use Area.

**KEY FACTS AND INFORMATION SUMMARY**

In August of 2006, Council adopted the Downtown Implementation Strategy, a comprehensive strategic action plan for the Downtown. One of three primary strategies is to "develop Fanno Creek Park and the Open Space System in Downtown." In general, parks have the capacity to garner strong public support and attract new investment. As a result, Fanno Creek Park and the Public Use Area are identified as vital improvements which the City can undertake to activate new development in the Downtown. The development of a master plan for Fanno Creek Park is a budgeted project for this fiscal year, FY 06-07.

The master plan for Fanno Creek Park and the Public Use Area are key projects for FY 06-07, and will remain a priority given Council goals, voter approval to use Urban Renewal in the Downtown, and adoption of the Downtown Implementation Strategy. It is anticipated that once Phases I and II (Master Plan and Schematic Design) are completed, the City will proceed with Phases III, IV (Design Development, Construction Drawings) in FY 07-08, pending budget approval.

**OTHER ALTERNATIVES CONSIDERED**

None considered.

**COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT**

Tigard Beyond Tomorrow Vision Goals, Strategies, or Action Plan items: Goal #2) page The downtown will provide a gathering place for the community and honor the sense of a small town/village. Strategy--1) Develop the gathering place identified on the Tigard Downtown Improvement Plan (TDIP). Planned Actions: Development of downtown place for events will be high priority when the Tigard Downtown Improvement Plan (TDIP) is finished.

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**ATTACHMENT LIST**

Attachment 1: Summary of Fanno Creek Park Master Plan RFP

Attachment 2: Fanno RFP Map

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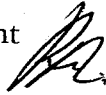
**FISCAL NOTES**

This is a budgeted project for FY 06-07 in the amount \$60,000.



# MEMORANDUM

TO: City Council

FROM: Phil Nachbar, Senior Planner / Downtown Development 

RE: Summary of Fanno Creek Master Plan RFP

DATE: 11-08-06

## Summary of Fanno Creek Master Plan RFP

### Proposed Timelines:

- |                                |                      |
|--------------------------------|----------------------|
| • RFP Issued                   | November 27, 2006    |
| • Deadline to receive Proposal | January 5, 2007, 5pm |
| • Consultant Interviews        | January 15-19, 2007  |
| • Contract Award               | February 13, 2007    |
| • Execution of Contract        | February 19, 2007    |

### Background:

Tigard has, over the past 3 years, undertaken extensive planning for its Downtown, which has remained underutilized, but with high potential for redevelopment. In August of 2006, Council adopted the *Downtown Implementation Strategy*, a comprehensive strategic action plan for the Downtown. One of three primary strategies is to “develop Fanno Creek Park and the Open Space System in Downtown.” The development of a master plan for Fanno Creek Park is a budgeted project for this fiscal year, FY 06-07.

### Project Area:

Fanno Creek Park is a linear park (21.8 acres) and is located along the southwestern edge of Downtown from Hall Blvd on the east, to Main Street on the west. The project area for the Fanno Creek Park master plan will include the park itself, the Fanno Creek Trail west of Main St. to Grant Street, and potential park expansion areas including two adjoining floodplain properties. Expansion of the park, to include the approximately 4.5 additional acres, supports the goal of restoring the natural watershed and providing adequate space for a multi-use, public plaza for the community.

## **Design Challenges / Direction for the Park and Public Plaza:**

Fanno Creek Park: The Park presents several design challenges. Prior planning efforts and current discussions identify Fanno Creek Park as a passive nature preserve, in contrast to a more traditional park with active spaces. Situated along the regional Fanno Creek Trail, it presents the design opportunity to serve as an entryway to Downtown, and emphasize its unique ecological character. The Park will serve existing neighborhoods to the southwest and new higher density neighborhoods anticipated along the northeastern boundary from Hall Blvd. to Main Street.

Fanno Creek Park currently lacks definable spaces or a sequence of spaces. Viewpoints are limited and the Park does not visually read as a whole. The Park is ecologically fragmented with invasive and non-native species, poorly defined riparian zones, and lack of cohesive ecological areas. Light, spatial definition, sequence, access, viewpoints and ecological character represent design challenges.

Public Use Area: The development of a central gathering place adjacent to Fanno Creek Park is a key urban design element of the Downtown Improvement Plan. The Public Use Area (plaza) is situated between the larger open expanse of Fanno Creek Park and the future “Urban Creek Corridor”, a series of park blocks, north to south, through Downtown. It is the “heart” of the Downtown. General design challenges include melding programmatic uses within a cohesive design, designing a central pedestrian place with strong thematic character, and providing urban design direction as to the interface between the Public Use Area and adjacent future development. More specific design challenges include access and circulation between the Public Use area and the Park, surrounding streets, development and the future “Urban Creek Corridor”. Ultimately, the primary design goal for the Public Use Area is to create outdoor spaces which are varied, have strong spatial qualities, and serve the community. The notion of the Public Use Area serving as both public place and a space where the “ecological” is a principle component of its design is one potential theme to be explored.

## **Scope of Work:**

The City of Tigard Community Development Department is seeking proposals from landscape architecture, architecture and urban design firms, as teams or consultant with demonstrated experience in park design and urban design.

### **Project Schedule (Phases I & II only)**

Phase I: Technical Investigation, Opportunities and Constraints and Programming (synthesis) and Concept Design	Feb. – April '07
Phase II: Schematic Design	May – July '07
Phase III: Design Development / Review (City approval)	Aug. – Nov. '07
Phase IV: Construction Documents & Bids (City approval)	Dec. – May '08
Phase V: Construction Administration (City Approval)	June – Oct. '08

*Note: This RFP is for Phases I and II only. Subsequent phases may be awarded at the sole discretion of the City.*

### **Public Involvement Process:**

This project will focus on the design of Fanno Creek Park and the Public Use Area, which is Downtown's central plaza space for the community. Because its design affects all residents of the community, broad community interest will be encouraged. There will be a steering committee, specific public meeting forums, input from Downtown businesses, local neighborhoods, local boards and commissions, and the community at-large will be solicited.

Design options and the final preferred designs will be displayed at several locations in the community in advance of the public meetings. Six (6) on-line newsletters are anticipated during the master planning process. A variety of activities are planned to keep the general public engaged as the project moves forward.

### ***Public Meeting Forums (3)***

- The first public meeting will be held at the beginning of the design process where initial park programmatic and design ideas are explored. This will also provide an opportunity to express a variety of ideas regarding general concept, opportunities and constraints.
- A second public meeting will combine an open house with a more formal presentation of conceptual design options.
- A third open house and discussion will center around the master plan at the Schematic Design level.

### *Steering Committee Meetings (7)*

The Committee will be comprised of the following representation:

- City Center Advisory Commission (2)
- Local Neighborhoods adjoining park (2)
- Downtown Business Owners (2)
- Parks Board Members (2)
- Citizen At-Large (1)



# Fanno Creek Park and Public Use Area

